

Joint Standing Committee on Judiciary

LD 25 **An Act To Educate Women on the Medical Risks Associated with Abortion** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY	ONTP MAJ	
SNOWE-MELLO	OTP-AM MIN	

LD 25 proposed to amend the laws governing informed consent to abortion to require the attending physician to provide the woman with certain information orally and in writing at least 24 hours prior to performing an abortion. The information required would include the probable gestational age and anatomical development of the fetus at the time of the scheduled abortion; the physical and psychological risks associated with abortion and the abortion technique to be performed, in view of the patient's own pregnancy, including risks identified in a pamphlet to be published and distributed to doctors by the Department of Health and Human Services, Bureau of Health; and the name of the physician who is to perform the abortion.

Committee Amendment "A" (H-650), the minority report of the Joint Standing Committee on Judiciary, proposed to add an appropriations and allocations section to the bill. (Not adopted)

LD 34 **An Act To Institute Loser-pay Litigation in the State of Maine** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLUKEY	ONTP MAJ	
SHERMAN	OTP MIN	

LD 34 proposed to require that the losing party in civil litigation pay the reasonable attorney's fees of the prevailing party.

LD 51 **Resolve, To Encourage Parents To Choose To Dedicate a Portion of Child Support Payments to College Investment Accounts** **RESOLVE 90**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW	OTP-AM	H-495
COWGER		

LD 51 proposed to direct the Treasurer of State, in consultation with the Department of Health and Human Services and the Judicial Department, to research methods of encouraging the use of college investment accounts by parents paying child support.

Committee Amendment "A" (H-495) proposed to replace the resolve. It proposed to direct the Treasurer of State, in consultation with the Department of Health and Human Services, the Family Law Advisory Commission and the Judicial Department, to research methods of encouraging the use of college investment accounts by parents who do not provide the primary residence for their children and who are paying child support, without reducing the resources that are available to pay the current support needs of the children involved. It proposed a

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report by the Treasurer by January 15, 2006, and proposed to authorize the Joint Standing Committee on Judiciary to report out legislation to the Second Regular Session of the 122nd Legislature.

Enacted law summary

Resolve 2005, chapter 90 directs the Treasurer of State, in consultation with the Department of Health and Human Services, the Family Law Advisory Commission and the Judicial Department, to research methods of encouraging the use of college investment accounts by parents who do not provide the primary residence for their children and who are paying child support, without reducing the resources that are available to pay the current support needs of the children involved. The resolve also requires the Treasurer of State to submit by January 15, 2006 a report that includes any recommendations and suggested legislation. It authorizes the Joint Standing Committee on Judiciary to report out legislation to the Second Regular Session of the 122nd Legislature.

LD 61 An Act To Authorize a Judge To Order Involuntary Commitment CARRIED OVER of a Person with Mental Illness Not Taking Prescribed Medication

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON MARTIN		

LD 61 is a concept draft pursuant to Joint Rule 208. It proposed to amend the emergency application procedures for involuntary commitment under the laws governing the Department of Health and Human Services. The bill proposed that, if a person with mental illness is under the care of a health care professional and is under a current prescription for medication to address the mental illness, a judge may order involuntary commitment if the person is not taking the medication.

See also LD 151, Joint Standing Committee on Health and Human Services.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 103 An Act To Establish the Fully Informed Jury Act ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOY	ONTP	

LD 103 proposed to enact the Fully Informed Jury Act. It proposed to apply to all actions in which the defendant has a right to a jury trial and in which the State or a political subdivision of the State is the plaintiff. It proposed that the right to a trial by jury includes the right to inform the jury about the jury's power to judge the law as well as all the evidence. Failure to allow the defendant to inform the jury would be grounds for a mistrial or a new trial. It proposed to allow a party to present evidence on the law, including its merit, intent, constitutionality or applicability, as well as the motive, moral perspective or circumstances of the defendant.

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LD 105

Resolve, Concerning Temporary Guardianship Laws

RESOLVE 91

Sponsor(s)
BISHOP

Committee Report
OTP-AM

Amendments Adopted
H-541

LD 105 proposed to amend the temporary guardianship proceedings in the Maine Revised Statutes, Title 18-A. The bill proposed to: require notice to the allegedly incapacitated person prior to appointment of a temporary guardian and provide the right to retained or appointed counsel; require an application for temporary guardianship to set forth the factual basis for any power requested for the guardian to consent to medication; allow the allegedly incapacitated person the power to control, to the extent possible, visitation with family and friends; require the temporary guardian and the guardian ad litem or visitor to be qualified to serve in that capacity; and shorten the time period for the report of the guardian ad litem or visitor to the court from 10 days from the date of appointment to 5 days from that date.

Committee Amendment "A" (H-541) proposed to replace the bill with a resolve directing the Department of Health and Human Services to convene a working group to review the laws and practices concerning temporary guardianships.

Enacted law summary

Resolve 2005, chapter 91 directs the Department of Health and Human Services to convene a working group to review the laws and practices concerning temporary guardianships. Representatives of the Disability Rights Center and the Probate Courts must be included. The working group must report to the Joint Standing Committee on Judiciary by January 15, 2006 and the committee may submit legislation in response to the report.

LD 157

An Act Concerning the Disclosure of Juror Information

PUBLIC 285

Sponsor(s)
MILLS P

Committee Report
OTP-AM

Amendments Adopted
S-244

LD 157 proposed to reverse the onus of disclosure of jurors' names from requiring disclosure unless the court determines that the names should be kept confidential. The bill proposed that jurors' names be kept confidential unless the court determines that the interests of justice require the jurors' names to be released.

Committee Amendment "A" (S-244) proposed to replace the bill. It proposed to clarify what information about jurors and prospective jurors may be disclosed and when that disclosure may take place.

Enacted law summary

Public Law 2005, chapter 285 clarifies what information about jurors and prospective jurors may be disclosed and when that disclosure may take place. Chapter 285 provides that the juror qualification forms are confidential and may not be disclosed, except that the prospective juror information is available for review for voir dire purposes at the courthouse, and then only available for the attorneys and the attorneys' agents and investigators, as well as the pro se parties. Records and information used in connection with the jury selection process are confidential and may not be disclosed except as otherwise provided. Chapter 285 provides that during the service of the jurors and prospective jurors, their names are confidential and may not be disclosed except to the attorneys and the attorneys'

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agents and investigators, as well as the pro se parties. Disclosure of juror names is allowed once the juror service has expired, but only upon written request to the court. The court may disclose the names of the jurors only if it is in the interests of justice.

The bill as amended was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

LD 162 An Act To Protect the Rights of Leaseholders and Ensure Their CARRIED OVER Continued Access to Land

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLARK DAVIS P		

LD 162 proposed to allow a lessee the right of first refusal to continue leasing a parcel of land when the land is transferred to a different owner and the new owner intends to continue leasing the land.

See also LD 1646.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 166 An Act To Prohibit Firearms in a Courthouse PUBLIC 175 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARR GAGNON	OTP-AM	H-217

LD 166 proposed to create a crime for an individual who is not a law enforcement officer acting in an official capacity to possess a firearm in a courthouse.

Committee Amendment "A" (H-217) proposed to expand who may possess a firearm in a courthouse to include a corrections officer when acting within the course and scope of the officer's employment. It also proposed to provide an exception for possession of a firearm when being offered as evidence.

Enacted law summary

Public Law 2005, chapter 175 makes it a crime for an individual to possess a firearm in a courthouse unless the individual is a law enforcement officer or a corrections officer when acting within the course and scope of the officer's employment. Chapter 175 allows a person to possess a firearm for the purpose of offering it as evidence in a court proceeding if the judge has approved the possession.

Public Law 2005, chapter 175 was enacted as an emergency measure effective May 20, 2005.

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LD 220

**An Act To Support the Disclosure of Information to Relatives Who
Are Likely To Provide Care to Children**

ONTP

Sponsor(s)
TURNER
SHIELDS

Committee Report
ONTP

Amendments Adopted

LD 220 proposed to permit the disclosure of information in child welfare cases to relatives who are likely to become caregivers to the child to facilitate placing children with relatives.

See also LD 867.

LD 250

**An Act To Make Technical Corrections to Maine's Appellate
Jurisdiction Laws Concerning Involuntary Hospitalization**

PUBLIC 48

Sponsor(s)
SHERMAN

Committee Report
OTP

Amendments Adopted

LD 250 proposed to clarify that the Superior Court has jurisdiction over appeals from the District Court in involuntary hospitalization cases in accordance with the Maine Revised Statutes, Title 34-B, section 3864, subsection 11.

Enacted law summary

Public Law 2005, chapter 48 clarifies that the Superior Court has jurisdiction over appeals from the District Court in involuntary hospitalization cases in accordance with the Maine Revised Statutes, Title 34-B, section 3864, subsection 11.

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LD 256

An Act To Ensure Compliance with Court-ordered Child Support

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOODY	ONTP	

LD 256 proposed to require a court to issue summary process and find a person in contempt when the person has defaulted on a child support order.

LD 260

An Act To Amend the Laws Governing Mechanics Liens

PUBLIC 311

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERUBE	OTP-AM	H-540

LD 260 proposed to amend the laws governing mechanics liens to require a lien claimant who has preserved a lien by filing an action in court to file a certificate or copy of the complaint in the registry of deeds within 30 days of bringing the action.

Committee Amendment "A" (H-540) proposed to replace the bill. It proposed to require mechanics lien claimants to file a notice in the registry of deeds within 60 days of filing a complaint in court to perfect the lien.

Enacted law summary

Public Law 2005, chapter 311 amends the mechanics lien laws to require lien claimants to file a notice in the registry of deeds within 60 days of filing a complaint in court to perfect the lien. This notice will inform potential purchasers of the property that the lien claim has been perfected and that the property is subject to the lien. Failure to file the notice before a bona fide purchaser takes title to property will defeat the lien claim.

LD 262

An Act To Protect Pregnant Women from Acts of Violence

PUBLIC 408

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY	ONTP MAJ	H-682 PELLETIER- SIMPSON
MARTIN	OTP-AM MIN	

LD 262 proposed to create the new crimes of murder, felony murder, assault, aggravated assault and elevated aggravated assault against an unborn child. The proposed punishment for these crimes is consistent with penalties for the same offenses committed against persons as defined in the Maine Revised Statutes, Title 17-A, chapter 9.

The proposed crimes against unborn children would not apply to an abortion to which the pregnant woman has consented, nor to acts committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment. The proposed crimes would not apply to the pregnant woman.

Committee Amendment "A" (H-647) proposed to include a purpose and intent section to make clear that the purpose of the new chapter creating crimes in which an unborn child's death results is to provide appropriate

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criminal justice consequences for crimes committed against an unborn child, not to provide status as a person to an unborn child. The proposed language provided that the chapter may not be construed to affect the State's policy concerning abortion or affect the rights of a pregnant woman concerning abortion as provided in the Maine Revised Statutes, Title 22, chapter 263-B.

The amendment proposed to remove from the bill those provisions creating the crimes of assault, aggravated assault and elevated aggravated assault on an unborn child, and from the new crime of manslaughter of an unborn child criminal liability of an employer who violates an occupational health and safety standard that causes the death of an unborn child. (Not adopted)

House Amendment "A" (H-682) proposed to replace the bill and provide for the crime of elevated aggravated assault on a pregnant person for a person who intentionally or knowingly causes serious bodily injury to a person the offender knows or has reason to know is pregnant.

Enacted law summary

Public Law 2005, chapter 408 creates the new crime of elevated aggravated assault on a pregnant person for a person who intentionally or knowingly causes serious bodily injury to a person the offender knows or has reason to know is pregnant. The crime is a Class A crime.

LD 272

An Act To Provide an Exemption from Discrimination Laws to Fitness Centers

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SNOWE-MELLO DAVIS P	ONTP MAJ OTP-AM MIN	

LD 272 proposed to provide an exception to the law prohibiting discrimination in places of public accommodation to permit a fitness center to provide facilities and services exclusively to persons of one sex.

Committee Amendment "A" (S-137), the minority report of the Joint Standing Committee on Judiciary, proposed to correct the bill to exempt fitness centers from the law that prohibits discrimination in public accommodations to allow fitness centers to provide facilities and services to exclusively one sex. (Not adopted)

LD 281

An Act Authorizing Property Managers To Bring Eviction Actions on Behalf of Landlords

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERUBE SNOWE-MELLO	ONTP	

LD 281 proposed to give a property manager the authority to file an eviction action on behalf of a landlord.

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LD 301

Resolve, To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws

RESOLVE 123

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-713 DUPLESSIE

LD 301 is a unanimous recommendation of the Committee to Study Compliance with Maine's Freedom of Access Laws. It proposed to establish the permanent Freedom of Access Advisory Committee to maintain the integrity of Maine's freedom of access laws. The bill also proposed to establish the Public Access Ombudsman within the Department of the Attorney General. It also proposed to establish legislative staff services for the legislative committees that are required to conduct the review of exceptions to public records laws.

Committee Amendment "A" (H-632) proposed to delete the Public Access Ombudsman from the bill and shift some of the responsibilities to the Freedom of Access Advisory Committee. (Not adopted)

House Amendment "A" (H-713) proposed to convert the bill to a resolve, make the Freedom of Access Advisory Committee temporary rather than permanent, adjust the duties of the advisory committee and make changes to conform to the drafting standards for studies approved by the Legislative Council and the Joint Rules.

Enacted law summary

Resolve 2005, chapter 123 establishes the Freedom of Access Advisory Committee as a one-year study commission to provide information and advice to the Joint Standing Committee on Judiciary as it reviews public record exceptions and to review the public's access to public proceedings and records. The committee is also directed to make recommendations to the Governor, the Legislature and the Chief Justice of the Maine Supreme Judicial Court, as well as local and regional governmental activities, for changes in law and practice that are appropriate to maintain the integrity of the freedom of access laws and their underlying principles.

LD 321

Resolve, To Review the Housing Discrimination Laws

**DIED IN
CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	
	ONTP MIN	

LD 321 proposed to provide the same protections against housing discrimination to recipients of public assistance as to all other protected classes.

Committee Amendment "A" (S-136), the majority report of the Joint Standing Committee on Judiciary, proposed to replace the bill with a resolve directing the Maine Human Rights Commission to convene a study group to review the housing discrimination laws as they protect recipients of public assistance. The amendment proposed that the commission submit a report to the Joint Standing Committee on Judiciary by January 31, 2006. (Not adopted)

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LD 324

An Act To Clarify Ownership and Management of Architectural Firms

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT-DESCHENE	ONTP	

LD 324 is a concept draft pursuant to Joint Rule 208. It proposed to require managers or the majority of directors of architectural firms to be licensed architects in order to prevent owners or shareholders of the firms who are engineers and not architects from managing licensed architects.

LD 385

An Act To Limit the Liability of Ambulance Services in Maine

PUBLIC 398

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	OTP-AM	H-693 PELLETIER-SIMPSON
NASS R		

LD 385 proposed to provide a limitation on the tort liability of ambulance services. It also proposed to prohibit anyone from requiring an ambulance service to maintain liability insurance coverage in excess of these limits.

Committee Amendment "A" (H-543) proposed to replace the bill. It proposed to relocate to the law governing emergency medical services the proposed language that applies the Maine Tort Claims Act's liability caps to ambulance services. It also proposed to apply the Maine Tort Claims Act's individual employee cap on damages of \$10,000 to the employees of ambulance services. (Not adopted)

House Amendment "A" (H-693) proposed to replace the bill. It proposed to provide that a for-profit, incorporated emergency medical service be covered by the Maine Tort Claims Act only when it is acting within the scope of emergency response activities authorized by a contract between the emergency medical service and the governmental entity. It also proposed to provide that an ambulance service cannot be required to procure insurance coverage beyond the liability limits of the Maine Tort Claims Act for any liability that falls under the application of the Maine Tort Claims Act, and that an insurer cannot require coverage for liability beyond the liability limits when applicable.

Enacted law summary

Public Law 2005, chapter 398 provides that a for-profit, incorporated emergency medical service is covered by the Maine Tort Claims Act only when it is acting within the scope of emergency response activities authorized by a contract between the emergency medical service and the governmental entity.

Chapter 398 also provides that an ambulance service cannot be required to procure insurance coverage beyond the liability limits of the Maine Tort Claims Act for any liability that falls under the application of the Maine Tort Claims Act. Chapter 398 also provides that an insurer cannot require coverage for liability beyond the liability limits when applicable.

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LD 415

**Resolve, To Create the Committee To Study State Compliance
with the Federal Indian Child Welfare Act of 1978**

**RESOLVE 118
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROTUNDO PELLETIER- SIMPSON	OTP-AM	H-710 DUPLESSIE S-138

LD 415 proposed to require the Department of Health and Human Services to comply with the federal Indian Child Welfare Act when dealing with a child who is a member of an Indian tribe recognized by the Federal Government or Maine.

Committee Amendment "A" (S-138) proposed to replace the bill with a resolve to create the Committee To Study State Compliance with the Federal Indian Child Welfare Act of 1978. The committee would consist of 12 members, including Legislators, representatives of the four tribes and bands recognized in this State, the Attorney General or the Attorney General's designee and the Commissioner of Health and Human Services or the commissioner's designee. The amendment proposed that the Chief Justice of the Supreme Judicial Court be asked to appoint a representative of the judicial branch to serve as a voting member of the committee. The amendment proposed that the committee study compliance by the State with the federal Indian Child Welfare Act of 1978 and report to the Joint Standing Committee on Judiciary by December 1, 2005. The Judiciary Committee would have authority to introduce legislation in the Second Regular Session of the 122nd Legislature.

House Amendment "A" to Committee Amendment "A" (H-710) proposed to: specify that a single public hearing may be held in Augusta; remove a provision of the resolve concerning compensation of public members; and bring the resolve into conformity with the Joint Rules and Standards for Legislative Studies adopted by the Legislative Council.

Enacted law summary

Resolve 2005, chapter 118 creates the Committee To Study State Compliance with the Federal Indian Child Welfare Act of 1978. The committee consists of 12 members, including Legislators, representatives of the four tribes and bands recognized in this State, the Attorney General or the Attorney General's designee and the Commissioner of Health and Human Services or the commissioner's designee. The Chief Justice of the Supreme Judicial Court is asked to appoint a representative of the judicial branch who will serve as a voting member of the committee. The committee will study compliance by the State with the federal Indian Child Welfare Act of 1978 and report to the Joint Standing Committee on Judiciary by December 1, 2005.

Resolve 2005, chapter 118 was finally passed as an emergency measure effective June 21, 2005.

LD 432

**An Act To Increase from 90 to 120 Days the Time Frame To File
Contractor Liens**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKANE DOW	ONTP	

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LD 432 proposed to extend the period of time from 90 days to 120 days during which a person may file a mechanics lien and avoid the dissolution of the lien.

LD 466 **An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Attorney's Fees** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP	

LD 466 is the recommendation of the majority of the Committee to Study Compliance with Maine's Freedom of Access Laws. It proposed to apply to actions filed in court to enforce access to public proceedings and records under the Maine freedom of access laws. It proposed to give the court discretion to award attorney's fees and litigation expenses to either party when certain circumstances exist.

LD 467 **An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Personal Contact Information** **PUBLIC 381**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 467 is the recommendation of the majority of the Committee to Study Compliance with Maine's Freedom of Access Laws. It proposed to provide an exception to the definition of "public record" in Maine's freedom of access laws for the personal contact information of public employees.

The bill as amended was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

Enacted law summary

Public Law 2005, chapter 381 is the recommendation of the majority of the Committee to Study Compliance with Maine's Freedom of Access Laws. It provides an exception to the definition of "public record" in Maine's freedom of access laws for the personal contact information of public employees.

LD 469 **An Act To Simplify the Real Estate Foreclosure Process** **PUBLIC 291**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRESSEY DAMON	OTP-AM	H-466

LD 469 proposed to require a lender who sells a property at auction after foreclosure to deliver the writ of possession to the buyer along with the deed to the property.

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Committee Amendment "A" (H-466) proposed to limit the requirement that the mortgagee provide a writ of possession when delivering the deed for property sold at auction after foreclosure to situations in which the mortgagee actually obtained a writ of possession during the foreclosure process.

Enacted law summary

Public Law 2005, chapter 291 requires a lender who sells a property at auction after foreclosure to deliver the writ of possession, if such a writ was obtained, to the buyer along with the deed to the property.

LD 483 **An Act To Facilitate Real Estate Ownership** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWEN SAVAGE	ONTP	

LD 483 is a concept draft pursuant to Joint Rule 208. It proposed to amend real property law to allow a person who owns less than 100% of a parcel of property to gain clear title to that parcel if the person can prove that the parcel is in fact, if not in law, owned by the person. One method of proof, similar to the adverse possession laws, would be that the person made tax payments on the property for 20 years and that no one else made tax payments during this time.

LD 491 **An Act To Cure an Inconsistency Regarding Judgment Liens** **PUBLIC 62**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS G	OTP	

LD 491 proposed to correct inconsistencies in the laws governing execution liens and writs of execution.

Enacted law summary

Public Law 2005, chapter 62 extends the period during which an execution of a lien on real estate, personal property or motor vehicles may be filed from one year to three years. It also provides that any lien that conforms to the requirements regarding notice and duration is valid for three years if notice of execution was filed after September 19, 1995 and within three years of the issuance of the execution.

LD 522 **An Act To Provide the Same Exemption from Jury Duty to Veterinarians as Granted to Medical Doctors** **PUBLIC 60**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PARADIS MARTIN	OTP	

LD 522 proposed to exempt from jury duty veterinarians who are employed in or have an active veterinary medicine practice.

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Enacted law summary

Public Law 2005, chapter 60 exempts from jury duty veterinarians who are employed in or have an active veterinary medicine practice.

LD 537

An Act Relating to Animals in Food Stores and Restaurants

PUBLIC 318

Sponsor(s)

Committee Report
OTP-AM

Amendments Adopted
S-245

LD 537 proposed to repeal the Maine Revised Statutes, Title 17, section 3966 because it is inconsistent with the requirements of the Maine Human Rights Act dealing with reasonable accommodation of people with disabilities and access to places of public accommodation.

Committee Amendment "A" (S-245) proposed to replace the bill, and retain the current criminal provision of bringing an animal into a store where food is sold for human consumption or into a restaurant where food is prepared and served on the premises, but update the exception to cover all service animals, not just seeing-eye dogs.

Enacted law summary

Public Law 2005, chapter 318 updates the current criminal provision of bringing an animal into a store where food is sold for human consumption or into a restaurant where food is prepared and served on the premises to cover all service animals, not just seeing-eye dogs. The definition of "service animal" is consistent with the rules adopted by the Maine Human Rights Commission.

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LD 539 **An Act Authorizing Municipalities To Establish Walking Trails** **DIED BETWEEN HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GAGNON	ONTP MAJ	
MARLEY	OTP-AM MIN	

LD 539 proposed to authorize municipalities to establish walking trails and provide a private landowner limited liability for injury occurring on the municipal walking trail on that landowner's property.

Committee Amendment "A" (S-338), the minority report of the Joint Standing Committee on Judiciary, proposed to replace the bill. It proposed to establish a simplified optional framework for the public, nonprofit organizations and municipal government to establish trails. It did not propose to affect the liability of municipalities or private landowners already established under current law. (Not adopted)

LD 549 **An Act To Expedite the Forcible Entry and Detainer Process in Nonpayment Cases** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	ONTP	

LD 549 proposed to require a tenant with a written lease who receives a notice to quit for nonpayment of rent and has no defense for nonpayment to place the amount of rent owed in escrow with the District Court in order to receive a hearing on the notice. It proposed that if a tenant who receives a notice to quit for nonpayment does not place the amount of rent owned in escrow within three days after the expiration of the notice to quit, the court would be required to issue a writ of possession.

LD 570 **An Act To Require the Fair Application of the Mechanic's Lien Law** **PUBLIC 287**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER SMITH N	OTP-AM	S-230

LD 570 proposed to protect nonresidential owners from mechanics liens filed by a supplier of goods and services when the supplier does not have a contract with the owner.

Committee Amendment "A" (S-230) proposed to replace the bill. It proposed to rewrite the provisions concerning the requirements for avoiding the dissolution of a mechanics lien to include providing notice of the lien filing to the owner or owners if the lien claimant does not have a contract with the owner or owners.

Enacted law summary

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Public Law 2005, chapter 287 rewrites the provisions concerning the requirements for avoiding the dissolution of a mechanics lien to include providing notice to the owner or owners of the lien filing if the lien claimant does not have a contract with the owner or owners. Chapter 287 establishes a period during which the lien claimant and the contractor have the opportunity to work out the claim for payment underlying the lien before the lien claimant must provide notice of the filing of the complaint in court. The lien claimant must wait 30 days after filing the complaint against the contractor, the owner and other responsible parties to notify the owner of the property. The deadline for filing the return of service for serving the complaint on the owner, as provided in the Maine Rules of Civil Procedure, is tolled for 30 days, which is consistent with not serving the owner of the suit for 30 days.

LD 591 **An Act To Clarify the Provisions for Child Support Orders
Providing Health Insurance for Children** **ONTP**

<u>Sponsor(s)</u> TARDY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 591 proposed to allow the court to order either parent, or both, to provide health insurance coverage for the child.

See also LD 1502.

LD 592 **An Act To Allow Case Management Officers To Conduct Hearings
in Divorce Court** **PUBLIC 385**

<u>Sponsor(s)</u> TARDY		<u>Committee Report</u> OTP		<u>Amendments Adopted</u>
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LD 592 proposed to authorize the Chief Justice of the Supreme Judicial Court to establish a pilot project in which one or more family case management officers have jurisdiction to hear and dispose of all elements of a divorce action when both parties to the divorce consent.

Enacted law summary

Public Law 2005, chapter 385 authorizes the Chief Justice of the Supreme Judicial Court to establish a pilot project in which one or more family case management officers have jurisdiction to hear and dispose of all elements of a divorce action when both parties to the divorce consent. By January 15, 2007, the State Court Administrator is required to report the results of any pilot project to the joint standing committee of the Legislature having jurisdiction over judiciary matters.

Joint Standing Committee on Judiciary

LD 621

An Act Regarding Divorce and Marital Property

PUBLIC 298

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUMMINGS HOBBINS	OTP-AM	H-496

LD 621 proposed to add to the marital property statutes for divorce an inchoate equitable interest for a nonowner spouse in certain property, such as an individual retirement account, once a divorce complaint has been filed.

Committee Amendment "A" (H-496) proposed to replace the bill, but carry out the original intent.

Enacted law summary

Public Law 2005, chapter 298 provides that once a divorce starts, a pension in just one spouse's name is automatically titled in both parties' names without having to obtain an attachment, levy or court order to that effect, to the extent that the account or plan is either exempt or beyond the reach of an attaching or judgment lien creditor under state or federal law.

LD 627

An Act To Require Notification prior to Suspension of a Driver's License for a Nonmotor Vehicle Violation

PUBLIC 325

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE STRIMLING	OTP-AM	H-497

LD 627 proposed to prohibit a court or the Secretary of State from suspending the driver's license of a person for a reason not related to the operation of a motor vehicle, such as failure to pay child support or a civil fine, without providing 60 days' notice to the person.

Committee Amendment "A" (H-497) proposed to amend the motor vehicle laws to require the court to notify a person of suspension by the court of the person's license or permit, the right to operate a motor vehicle in this State and the right to apply for or obtain a license or permit when the suspension is for a motor vehicle-related violation. The amendment also proposed that the court must notify the Secretary of State of the suspension.

Enacted law summary

Public Law 2005, chapter 325 prohibits a court or the Secretary of State from suspending the driver's license of a person for a reason not related to the operation of a motor vehicle without providing 60 days' notice to the person. It also requires the court to notify a person of suspension by the court of the person's license or permit, the right to operate a motor vehicle in this State and the right to apply for or obtain a license or permit when the suspension is for a motor vehicle-related violation. The court must also notify the Secretary of State of the suspension.

Joint Standing Committee on Judiciary

LD 644

An Act To Prohibit Discrimination in Housing

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING PELLETIER- SIMPSON	ONTP	

LD 644 proposed to eliminate exclusions from the unlawful housing discrimination laws the rental of a one-family unit of a two-family dwelling if one unit is owner-occupied or the rental of four or fewer rooms of a one-family dwelling that is owner-occupied.

LD 645

An Act To Promote the Commonsense Consumption of Food

PUBLIC 355

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TURNER MCKENNEY	OTP-AM	S-324

LD 645 proposed to create a defense for a person or business entity that serves food from claims of obesity or excessive weight gain by consumers as a result of their long-term consumption of food from that person or entity. Exceptions to this defense would be instances in which food items are altered or misbranded and certain cases of other knowing and willful violations of state or federal law.

Committee Amendment "A" (S-324) proposed to replace the bill. It proposed to simplify the immunity provided to state that the manufacturer, distributor or seller of a food product is not liable for personal injury or death to the extent the liability is based on the person's weight gain or obesity resulting from the person's long-term consumption of the food product. It proposed no immunity for a manufacturer or distributor for claims that are otherwise available under other law if the manufacturer or distributor failed to comply with labeling or disclosure requirements under state or federal laws, rules or regulations. It also proposed no immunity for a manufacturer or distributor that provided materially false or misleading information to the public.

Enacted law summary

Public Law 2005, chapter 355 provides immunity to the manufacturer, distributor or seller of a food product for personal injury or death to the extent the liability is based on the person's weight gain or obesity resulting from the person's long-term consumption of the food product. No immunity is provided for a manufacturer or distributor for claims that are otherwise available under other law if the manufacturer or distributor failed to comply with labeling or disclosure requirements under state or federal laws, rules or regulations. It also does not provide immunity for a manufacturer or distributor that provided materially false or misleading information to the public.

Joint Standing Committee on Judiciary

LD 668

An Act To Amend the Land Use Regulation Laws

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JOY	ONTP MAJ OTP-AM MIN	

LD 668 proposed to allow a property owner to seek just compensation from a municipality or the State if the municipality or the State enforces a land use regulation that restricts the use of or reduces the value of private real property. The bill was based on a law enacted in the State of Oregon

Committee Amendment "A" (H-465), the minority report of the Joint Standing Committee on Judiciary, proposed to incorporate a fiscal note. (Not adopted)

LD 674

An Act To Remove the Jurisdiction of Probate Court in Child Protection Petitions

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN PELLETIER- SIMPSON	ONTP	

LD 674 proposed to amend the child welfare laws to eliminate any role of the Probate Court in child protection petitions or other proceedings.

LD 681

An Act Regarding the Use of Arbitration in Certain Consumer Cases

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROMLEY O'BRIEN	ONTP	

LD 681 proposed to expand the ability of parties to use arbitration as an alternative dispute resolution mechanism in order to save time and expense in the resolution of consumer complaints.

Joint Standing Committee on Judiciary

LD 693

An Act To Increase Public Safety through the Enhancement of Law Enforcement for the Houlton Band of Maliseet Indians

PUBLIC 310

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLUKEY SHERMAN	OTP-AM	S-229

LD 693 is a concept draft pursuant to Joint Rule 208. It proposed to amend state laws to provide for cooperation among law enforcement resources of the State, Aroostook County, the Town of Houlton and the Houlton Band of Maliseet Indians.

Committee Amendment "A" (S-229) proposed to replace the bill and provide a framework for the Houlton Band of Maliseet Indians to provide law enforcement services within their Trust Land.

Enacted law summary

Public Law 2005, chapter 310 authorizes the Houlton Band of Maliseet Indians to appoint law enforcement officers who will have authority to enforce all the laws of the State within the Houlton Band Trust Land, as defined in the Maine Revised Statutes, Title 30, chapter 601 and in the federal Houlton Band of Maliseet Indians Supplementary Claims Settlement Act of 1986, Public Law 99-566 (1986). Law enforcement officers of the State, Aroostook County and the Town of Houlton have authority to enforce all laws of the State within the Houlton Band Trust Land. Chapter 310 provides that the Houlton Band of Maliseet Indians may enter into cooperation and mutual aid agreements with other state, county or local law enforcement agencies. It also provides that law enforcement officers of the Houlton Band of Maliseet Indians have the same powers, enjoy the same immunities and are subject to the same duties, limitations and training requirements as other law enforcement officers in this State that are in corresponding situations.

Chapter 310 requires the Houlton Band of Maliseet Indians to report by January 1, 2010 on the experience under this Act. The report must include observations and comments from State, Aroostook County and Houlton law enforcement agencies. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over judiciary matters.

Chapter 310 provides for the repeal of the entire provision on July 1, 2010.

LD 704

An Act To Amend the Laws Governing De Minimis Infractions of the Maine Criminal Code

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHERMAN	ONTP MAJ OTP-AM MIN	

LD 704 proposed to change the process for determining whether conduct alleged to violate the Maine Criminal Code is a de minimis infraction. This bill proposed to allow a judge or jury to base a verdict upon whether the defendant's conduct is a de minimis infraction.

Joint Standing Committee on Judiciary

Committee Amendment "A" (H-278), the minority report of the Joint Standing Committee on Judiciary, proposed to limit the jury's power to consider whether the defendant's conduct represents a de minimis infraction to trials of Class D and Class E crimes. (Not adopted)

LD 713

An Act To Amend Maine's Divorce Laws

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLETT	ONTP MAJ OTP-AM MIN	

LD 713 proposed to create new grounds for divorce: fraud or financial misconduct. This bill proposed to require a court, upon a showing by the complaining spouse of fraud or financial misconduct by a preponderance of the evidence, to make the complaining spouse whole through the disposition of the marital assets and, if necessary, from the assets and future income of the spouse who committed the fraud or financial misconduct.

Committee Amendment "A" (H-579), the minority report of the Joint Standing Committee on Judiciary, proposed to provide that if a divorce is granted on the grounds of fraud or financial misconduct, the court must order the disposition of marital and nonmarital assets to make the complaining spouse whole. The fraud or financial misconduct must be proved by clear and convincing evidence. (Not adopted)

LD 715

An Act To Provide Support for Legal Services for Low-income Mainers

PUBLIC 361

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY EDMONDS	OTP-AM	H-582

LD 715 proposed to provide that 7% of any fee collected after July 1, 2005 by the Judicial Department will be paid into the Maine Civil Legal Services Fund. It also proposed to increase from \$5 to \$10 the surcharge, imposed by the court on each civil fine, penalty or forfeiture imposed by the court, to be paid into the Maine Civil Legal Services Fund. The bill also proposed to provide an appropriation of \$400,000 each year for fiscal years 2005-06 and 2006-07 to support legal services to persons who are otherwise not able to pay for those services.

Committee Amendment "A" (H-582) proposed to expand the number of legal services providers that are eligible to receive funding from the Civil Legal Services Fund to include nonprofit organizations whose missions include the provision of free legal services, including the provision of civil legal services to needy people. It proposed to clarify that fees collected by the Judicial Branch for publications under the Maine Revised Statutes, Title 4, section 17-A and fees collected by the Court Alternative Dispute Resolution Service under section 18-A, subsection 8 would not be subject to the 7% distribution to the Civil Legal Services Fund. It proposed to delete from the bill the General Fund appropriation of \$400,000 in each of fiscal years 2005-06 and 2006-07.

Joint Standing Committee on Judiciary

Enacted law summary

Public Law 2005, chapter 361 provides that 7% of any fee collected after July 1, 2005 by the Judicial Department will be paid into the Maine Civil Legal Services Fund. It also increases from \$5 to \$10 the surcharge, imposed by the court on each civil fine, penalty or forfeiture imposed by the court, to be paid into the Maine Civil Legal Services Fund. Chapter 361 also expands the number of legal services providers that are eligible to receive funding from the Civil Legal Services Fund to include nonprofit organizations whose missions include the provision of free legal services, including the provision of civil legal services to needy people.

LD 718	An Act To Increase the Amount of Equity in a Principal Residence That Is Exempt from Attachment	ONTP
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<u>Sponsor(s)</u> COLLINS STRIMLING	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 718 proposed to amend the law regarding exemption from attachment and execution to:

1. Clarify that the exemption for a residence applies only to the principal residence of the debtor;
2. Increase the amount of the principal residence exemption for a debtor less than 60 years of age to \$100,000;
3. Increase the amount of the principal residence exemption for a debtor who is at least 60 years of age to \$200,000; and
4. Reallocate the exemption for burial plots from the subsection of law that deals with residences to a separate subsection.

LD 722	An Act Deleting Gender-specific and Archaic Language from Certain Laws Concerning the Office of the Attorney General	PUBLIC 154
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<u>Sponsor(s)</u> PELLETIER- SIMPSON HOBBINS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-277
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LD 722 proposed to allow the Attorney General to appoint a director of investigations to perform duties the Attorney General delegates, within the existing budget provided. It also proposed to delete archaic language and fix gender-specific language.

Committee Amendment "A" (H-277) proposed to replace the bill to contain only technical changes to the laws governing the appointment of personnel by the Attorney General and delete all other provisions of the bill.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2005, chapter 154 makes technical changes to the laws governing the appointment of personnel by the Attorney General to correct gender-specific language and remove archaic language.

LD 732 **An Act To Provide a Defense in Protection from Abuse Orders** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W STRIMLING	ONTP	

LD 732 proposed to provide as a defense to a violation of a protection from abuse order when nonphysical contact or communication is alleged that the plaintiff initiated the nonphysical contact or communication.

LD 771 **An Act To Protect Consumers' Use of Gift Cards** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON COWGER	ONTP	

LD 771 proposed to prohibit an issuer of a gift card from charging dormancy charges or other fees prior to the date that the gift obligation is presumed abandoned; after that, any dormancy charges or fees imposed may not be unconscionable.

See also LD 1084.

LD 772 **An Act To Prohibit the Placement of Expiration Dates on Gift Cards** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARLEY	ONTP	

LD 772 proposed to prohibit an issuer from placing an expiration date on a gift obligation.

See also LD 1084.

LD 780 **An Act To Allow a Landlord To Discover Whether Sewer and Water Bills Have Been Paid** **PUBLIC 306**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GLYNN	OTP-AM	H-539

Joint Standing Committee on Judiciary

LD 780 proposed to provide that if a tenant is billed for water or sewer service to the property rented by the tenant and the property is subject to a lien to secure payment for that service, the landlord is entitled to information on the current status of the tenant's water or sewer service account, including any amounts due or overdue.

Committee Amendment "A" (H-539) proposed to clarify that a landlord or the landlord's agent may request account information before there is a lien against the property.

Enacted law summary

Public Law 2005, chapter 306 provides that if a tenant is billed for water or sewer service to the property rented by the tenant and the property may be subject to a lien to secure payment for that service, the landlord or the landlord's agent is entitled to information on the current status of the tenant's water or sewer service account, including any amounts due or overdue.

LD 816 **An Act To Prohibit Changing the Flow of Water on Another's Land** **CARRIED OVER**

<u>Sponsor(s)</u> ANDREWS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 816 proposed to classify as a nuisance the act of draining or reversing the direction of the water of a river, stream, pond or aquifer from its natural course or state to the injury or prejudice of others. Similar to the nuisance of unlawfully diverting water from its natural course, a person who is aggrieved by the unlawful draining or changing of the direction of water would be able to maintain a civil action against the person causing the nuisance.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 830 **An Act To Reduce the Duration of Nonpayment of Child Support That Triggers License Suspension** **ONTP**

<u>Sponsor(s)</u> KAELIN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 830 proposed to reduce from 60 days to 30 days the length of time after which the responsible parent may be served with an order to appear and disclose when the person owes \$500 or more in overdue child support.

LD 838 **An Act To Amend the Uniform Unclaimed Property Act As It Applies to Gift Cards** **ONTP**

<u>Sponsor(s)</u> TURNER		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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Joint Standing Committee on Judiciary

LD 838 proposed to exempt from the abandoned property reporting requirement gift obligations that do not have an expiration date or dormancy charges levied upon them and proposed to exempt such gift obligations from the presumption of abandonment.

See also LD 1084.

LD 853	An Act To Limit MaineCare Benefits for Individuals Seriously in Arrears on Child Support Payments	ONTP
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<u>Sponsor(s)</u> KAELIN ANDREWS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 853 is a concept draft pursuant to Joint Rule 208. It proposed to limit benefits under the MaineCare program for individuals who are seriously in arrears in making child support payments that they are obligated by law to make, including by court order. The bill would establish guidelines to be used to determine whether an individual is seriously in arrears.

Joint Standing Committee on Judiciary

LD 859

An Act To Provide Greater Civil Relief Protection for Members of the Military

PUBLIC 353

Sponsor(s)
TUTTLE
HOBBINS

Committee Report
OTP-AM

Amendments Adopted
H-538

LD 859 proposed to provide certain protections to members of the military in civil proceedings.

Committee Amendment "A" (H-538) proposed to clarify language and require that the best interest of the child govern any decisions concerning rights involving children.

Enacted law summary

Public Law 2005, chapter 353 provides that courts may not consider a military member's departure from the family residence or absence from the child or children as an adverse factor in determining parental rights and responsibilities if the military member's absence is due to military mobilization. Chapter 353 strengthens existing state civil relief protections for mobilized military members by allowing them to testify electronically, by requiring that their cases be held expeditiously and by allowing a service member to transfer the parent-child contact rights to one of the member's relatives if the military member is mobilized, unless the transfer is not in the best interest of the child. For actions and proceedings involving children, a stay may occur only if the stay is in the best interest of the child. It grants state recognition to wills, health care directives and powers of attorney federal laws pertaining to the military irrespective of specific state requirements.

Chapter 353 prohibits a court from changing the primary physical residence of a child when one of the child's parents is a member of the National Guard or the Reserves of the United States Armed Forces ordered to active duty and will be absent from the State in compliance with the order, unless the change is in the best interest of the child.

LD 867

An Act Regarding Child Protection Proceedings

PUBLIC 300

Sponsor(s)
PELLETIER-
SIMPSON
HOBBINS

Committee Report
OTP-AM

Amendments Adopted
H-545

LD 867 proposed to make the following changes to the laws governing access to information in child protection proceedings.

1. It proposed to specify that, within the Department of Health and Human Services, information in records, as well as the record itself, is protected and confidential. It also proposed to clarify that a person who receives records from the department may not further disseminate the record.

Joint Standing Committee on Judiciary

2. It proposed to limit use of department records to the purpose for which the release was intended and prohibit further dissemination of those records.
3. It proposed to expand the list of persons to whom the department is authorized to disclose relevant information.

Committee Amendment "A" (H-545) proposed to make two clarifications to the bill. It proposed to provide that a person may not further disseminate a record or information that the person receives from the Department of Health and Human Services unless that dissemination is otherwise allowed by law.

Enacted law summary

Public Law 2005, chapter 300 makes the following changes to the laws governing access to information in child protection proceedings.

1. It specifies that, within the Department of Health and Human Services, information in records, as well as the record itself, is protected and confidential. It also clarifies that a person who receives records from the department may not further disseminate the record.
2. It limits use of department records to the purpose for which the release was intended and prohibits further dissemination of those records.
3. It expands the list of persons to whom the department is authorized to disclose relevant information.

LD 869

An Act To Extend Recognition to the Metis People

ONTP

Sponsor(s)
BOWEN
SAVAGE

Committee Report
ONTP

Amendments Adopted

LD 869 proposed to provide state recognition for the Metis people, recognized in Canada as one of the aboriginal peoples.

LD 884

An Act To Protect Motherhood

PUBLIC 88

Sponsor(s)
EDMONDS
RICHARDSON J

Committee Report
OTP-AM

Amendments Adopted
S-139

LD 884 proposed to add to the duties of the Maine Commission on Domestic and Sexual Abuse to require the commission's Domestic Abuse Homicide Review Panel to collect and review data relating to the death of a pregnant woman when death results from criminal conduct. The bill proposed to require the Chief Medical Examiner to send copies of reports of such cases to the panel.

Joint Standing Committee on Judiciary

The bill also proposed to require a court, when sentencing a person for murder of a woman that the person knew or should have known to be pregnant, to give special weight to the existence of the pregnancy.

Committee Amendment "A" (S-139) proposed to reword the consideration to apply when the convicted person knew or had reasonable cause to believe that the victim was pregnant.

This amendment also proposed to require that same consideration for the crimes of attempted murder, manslaughter, elevated aggravated assault and aggravated assault.

Enacted law summary

Public Law 2005, chapter 88 requires special consideration by a court when sentencing a person convicted of murder when the victim was a woman that the convicted person knew or had reasonable cause to believe was pregnant. It requires that same consideration for the crimes of attempted murder, manslaughter, elevated aggravated assault and aggravated assault. Chapter 88 requires the Domestic Abuse Homicide Review Panel of the Maine Commission on Domestic and Sexual Abuse to collect and review data relating to the death of a pregnant woman when death results from criminal conduct. Chapter 88 also requires the Chief Medical Examiner to send copies of reports of such cases to the panel.

See also LD 262.

LD 894	An Act To Require Guardians ad Litem To Receive Counseling Training	ONTP
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<u>Sponsor(s)</u> SNOWE-MELLO VAUGHAN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 894 proposed to require the State Court Administrator to provide counseling training to guardians ad litem.

LD 908	An Act To Protect Homosexuals from Discrimination	ONTP
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<u>Sponsor(s)</u> DUPREY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 908 proposed to prohibit an abortion when the reason for the termination of the pregnancy is the projected sexual orientation of the fetus after it is born. The projected sexual orientation would be determined by analysis of the genetic materials of the fetus in which the projected sexual orientation is identified through the presence or absence of a so-called "homosexual gene."

Joint Standing Committee on Judiciary

LD 910

**An Act To Include Regional Transportation Systems under the
Maine Tort Claims Act**

PUBLIC 399

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO BRYANT B	OTP-AM	H-691

LD 910 proposed to allow transit districts formed under the Maine Revised Statutes, Title 30-A, chapter 163 by one or more municipalities to be treated as governmental entities for the purposes of the Maine Tort Claims Act.

Committee Amendment "A" (H-691) proposed to replace the bill. It proposed to amend the Maine Tort Claims Act to include in the definition of "political subdivision" transit districts and regional transportation corporations as those are defined in the Maine Revised Statutes, Title 30-A, section 3501.

Enacted law summary

Public Law 2005, chapter 399 amends the Maine Tort Claims Act to include in the definition of "political subdivision" transit districts and regional transportation corporations as those are defined in the Maine Revised Statutes, Title 30-A, section 3501.

LD 918

**An Act To Provide for the Payment of Attorney's Fees in a
Parental Rights and Responsibilities Action**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY HOBBINS	ONTP	

LD 918 proposed to authorize the court to order either party to pay attorney's fees in an action to determine parental rights and responsibilities.

See also LD 1502.

LD 924

**An Act To Require That the Name and Address of an Owner of a
Limited Liability Company Be in the Articles of Organization**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARR CLUKEY	ONTP	

LD 924 proposed to require that the name and address of every person who has an ownership interest in a limited liability company be included in the articles of organization filed with the Secretary of State.

Joint Standing Committee on Judiciary

LD 932

An Act To Clearly Identify Maine Corporations

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LINDELL	ONTP	

LD 932 proposed to require that a corporate business name clearly identify the status of the business as being incorporated as is required by many other jurisdictions.

LD 936

An Act To Amend the Maine Tort Claims Act

PUBLIC 448

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	OTP-AM	H-694

LD 936 proposed to amend the Maine Tort Claims Act to provide that discretionary function immunity does not apply to the negligent operation of a motor vehicle that is directly involved in a collision. The bill proposed to reverse the effect of the Maine Supreme Judicial Court's majority decision in Norton v. Hall, 2003 ME 118, and is consistent with the dissenting opinion.

Committee Amendment "A" (H-657), the majority report of the Joint Standing Committee on Judiciary, proposed to replace the bill. It proposed to revise the language amending the law that provides discretionary immunity for government entities and government employees to provide an exception from governmental immunity when the discretionary function involves the operation of a motor vehicle. It proposed to provide that there is no immunity for negligent operation of a motor vehicle that results in a collision. (Not adopted)

Committee Amendment "B" (H-694) proposed to provide that a governmental entity is not immune for negligent operation of a motor vehicle by an employee of the governmental entity when the employee's negligent operation of that motor vehicle results in a collision. It proposed no immunity for the governmental entity regardless of whether the Maine Tort Claims Act provides immunity for the employee.

House Amendment "A" to Committee Amendment "A" (H-666) proposed to amend Committee Amendment "A" by providing that there is no immunity for reckless operation of a motor vehicle that results in a collision as opposed to the negligent operation of a motor vehicle. (Not adopted)

Enacted law summary

Public Law 2005, chapter 448 amends the Maine Tort Claims Act to provide that a governmental entity is not immune for negligent operation of a motor vehicle by an employee of the governmental entity when the employee's negligent operation of that motor vehicle results in a collision. There is no immunity for the governmental entity regardless of whether the Maine Tort Claims Act provides immunity for the employee. The law governing the personal liability and immunity of employees of governmental entities is not affected.

Joint Standing Committee on Judiciary

LD 948

An Act To Shelter IRAs from the Bankruptcy Law

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER CANAVAN	ONTP	

LD 948 proposed to protect from creditors, including in bankruptcy proceedings, the full value of individual retirement accounts. Also protected would be "Roth individual retirement accounts" established under Section 408A of the United States Internal Revenue Code.

LD 955

An Act To Prevent the Financial Exploitation of Vulnerable Citizens

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FARRINGTON BARTLETT	ONTP	

LD 955 is a concept draft pursuant to Joint Rule 208. It proposed to study the development of state laws to require notarization of a signed document in order to change the beneficiary of a will, life insurance policy, retirement benefit, annuity or other inheritable benefit.

LD 973

An Act To Make Certain Changes in the Laws Concerning the Family Division of District Court

PUBLIC 384

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TARDY HOBBINS	OTP-AM MAJ ONTP MIN	H-646 H-665 PELLETIER- SIMPSON

LD 973 proposed to make several changes to the law governing the Family Division of the District Court.

It proposed to change the title of family case management officer to family law magistrate. It proposed to give family law magistrates the power of contempt that judges and justices currently have. It proposed to allow the Chief Judge of the District Court to authorize family law magistrates to wear robes when presiding over any proceeding.

Committee Amendment "A" (H-646) proposed to correct a clerical error, delete the change in the power of contempt for family case management officers, renamed "family law magistrates" in the bill, and authorize the Chief Judge of the District Court to allow family law magistrates to wear robes of any color other than black when presiding.

House Amendment "A" to Committee Amendment "A" (H-665) proposed to correct references to family case management officers, renamed family law magistrates in the bill.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2005, chapter 384 revises the title of family case management officer to family law magistrate. It also authorizes the Chief Judge of the District Court to allow family law magistrates to wear robes of any color other than black when presiding.

LD 974 **An Act To Amend the Guidelines Used To Determine Child Support Payments** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CURLEY	ONTP	
ROSEN R		

LD 974 proposed to amend the child support guidelines to provide an additional criterion for deviating from the automatic application of the child support guidelines. The bill proposed that the court or hearing officer, in establishing or modifying a child support order, must take into account the contributions that the party who provides the child's primary residence is making in improving the financial circumstances of the party and the child.

LD 985 **An Act To Amend Appellate Review Jurisdiction of the Superior Court** **PUBLIC 64**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 985 proposed to add three appeals to the list of appeals to the Superior Court by an aggrieved defendant. It also proposed to replace the outdated reference to abrogated Rule 37F of the Maine Rules of Criminal Procedure with Rule 36 of the Maine Rules of Criminal Procedure. The bill also proposed to codify what is currently done by implication alone, that the Superior Court's jurisdiction to hear appeals and petitions is limited to only the appeals and petitions from the District Court that are specified in Title 15, section 1, subsection 2.

Enacted law summary

Public Law 2005, chapter 64 adds the following three appeals to the list of appeals to the Superior Court by an aggrieved defendant: an appeal from a revocation of supervised release ruling in a revocation of supervised release proceeding in the District Court pursuant to the Maine Revised Statutes, Title 17-A, section 1233 and Rule 36 of the Maine Rules of Criminal Procedure; an appeal from a revocation of administrative release ruling in a revocation of administrative release proceeding in the District Court pursuant to Title 17-A, section 1349-F and Rule 36 of the Maine Rules of Criminal Procedure; and an appeal from the denial in the District Court of a petition by a petitioner seeking to be declared indigent for purposes of assignment of counsel on appeal or from the granting of a conditional order pursuant to Title 15, section 2111 and Maine Rules of Criminal Procedure, Rule 44A(c). Chapter 64 replaces the outdated reference to abrogated Rule 37F of the Maine Rules of Criminal Procedure with Rule 36 of the Maine Rules of Criminal Procedure. Chapter 64 also codifies what is currently done by implication alone, that the Superior Court's jurisdiction to hear appeals and petitions is limited to only the appeals and petitions from the District Court that are specified in Title 15, section 1, subsection 2.

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LD 986 **An Act To Amend the Maine Revised Uniform Limited Partnership Act** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS PELLETIER- SIMPSON		

LD 986 is a concept draft pursuant to Joint Rule 208. It proposed to make changes to the Maine Revised Uniform Limited Partnership Act of the Maine Revised Statutes, Title 31, chapter 11.

See also LD 1609.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1006 **An Act To Modify Joint and Several Liability** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS R	ONTP	

LD 1006 proposed to modify joint and several liability among defendants.

LD 1025 **An Act To Expedite the Divorce Process in Instances of Domestic Violence** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE DIAMOND	ONTP	

LD 1025 is a concept draft pursuant to Joint Rule 208. It proposed to amend the laws concerning divorce actions to require the District Court to adopt a scheduling process that provides for expedited hearings in divorce actions in cases involving domestic violence.

LD 1045 **An Act Regarding Contract Indemnification** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBINS		

LD 1045 proposed to prohibit certain indemnification agreements by which a contracting party indemnifies itself from its own negligence or willful misconduct.

Joint Standing Committee on Judiciary

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1053

An Act To Protect Maine Harness Racing from Illegal Wagering

PUBLIC 304

<u>Sponsor(s)</u> MARTIN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-246
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LD 1053 proposed to make it illegal to accept or solicit a bet concerning harness racing in the State by any means without a license from the State Harness Racing Commission. It proposed to allow a private right of action to any licensed commercial racetrack in the State against anyone conducting illegal wagering on harness racing in the State, with damages set at 20% of the monetary amount of the illegal wagering proved plus reasonable costs of collection and attorney's fees.

Committee Amendment "A" (S-246) proposed to replace the bill and build on the current law under which accepting harness racing wagers from anyone located in Maine is illegal unless the person accepting the wager is licensed by the Maine Harness Racing Commission. It proposed to create a private right of action to enforce the law with any damages, after the reasonable costs of suit, to be divided among the State's funds to provide for Maine's extended meets, harness racing purses, Maine's commercial tracks and Maine's off-track betting facilities. The damages are proposed to make up for the lost revenues experienced in Maine's harness racing industry because of electronic wagering that is not subject to the taxes placed on wagers legally placed in Maine. The amendment proposed to authorize damages for violations after written notice of the provisions of law.

Enacted law summary

Public Law 2005, chapter 304 creates a private right of action to enforce the unauthorized wagering law. Any damages, after the reasonable costs of suit, are to be divided among the State's funds to provide for Maine's extended meets, harness racing purses, Maine's commercial tracks and Maine's off-track betting facilities. The damages are intended to make up for the lost revenues experienced in Maine's harness racing industry because of electronic wagering that is not subject to the taxes placed on wagers legally placed in Maine. Punitive damages are authorized for violations after written notice of the provisions of this section.

LD 1063

An Act To Improve the Guardian ad Litem System

PUBLIC 360

<u>Sponsor(s)</u> BRENNAN TARDY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-298
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LD 1063 proposed to amend the laws concerning guardians ad litem. It proposed to add a section to the Probate Code to provide for appointment, qualifications, access to information, application of the best interest of the child standard, requirement of a report, immunity, requirement of notice and waiver of fees for guardians ad litem serving the Probate Court. This bill also proposed to authorize appointment of a guardian ad litem in an action in which a grandparent is seeking contact with a child. This bill proposed to provide that guardians ad litem are not required to pay certain court filing fees and fees for driving records and criminal record checks concerning persons involved in the action.

Joint Standing Committee on Judiciary

Committee Amendment "A" (S-298) proposed to delete from the bill the language that provides that guardians ad litem do not have to pay certain court filing fees and fees for driving records and criminal record checks.

Enacted law summary

Public Law 2005, chapter 360 amends the laws concerning guardians ad litem. It adds a section to the Probate Code to provide for appointment, qualifications, access to information, application of the best interest of the child standard, requirement of a report, immunity and requirement of notice. It also authorizes appointment of a guardian ad litem in an action in which a grandparent is seeking contact with a child.

LD 1067 **Resolve, To Establish the Task Force To Study and Design a Child Protection Mediation System** **INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL PELLETIER- SIMPSON	OTP-AM	S-337

LD 1067 proposed to create the Task Force to Study and Design a Child Protection Mediation System. The Resolve proposed to require the Task Force to submit a report to the Second Regular Session of the 122nd Legislature by December 1, 2005.

Committee Amendment "A" (S-337) proposed to revise the language concerning the advisory member from the Judicial Branch by requiring that member to be from the District Court, which handles child protection cases, rather than the Supreme Judicial Court. This amendment proposed to amend the resolve to include the issue of sufficient court clerk support for matters involving children. This amendment also proposed to specify the deadline for convening the task force and clarify the provision regarding staff assistance. (Not adopted)

LD 1073 **Resolve, Directing the Family Law Advisory Commission To Study the Child Protection Process** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN WOODCOCK	ONTP	

LD 1073 proposed to direct the Family Law Advisory Commission to study the child protection hearing process to determine how to streamline the process.

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LD 1079

An Act To Require Publicly Funded Entities To Report Undocumented Illegal Aliens

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACOBSEN	ONTP MAJ	
COURTNEY	OTP-AM MIN	

LD 1079 proposed to require a member of an organization that receives state funds to notify the United States Department of Homeland Security, United States Citizenship and Immigration Services if the member has contact with a person the member believes to be an undocumented illegal alien.

Committee Amendment "A" (H-581), the minority report of the Joint Standing Committee on Judiciary, proposed to revise the bill to require a member of an organization that receives state funds to notify the United States Department of Homeland Security, United States Citizenship and Immigration Services if the member has contact with a person the member knows to be an undocumented illegal alien. The contact with the known undocumented illegal alien must arise in the course of the official duties of the member of that organization. The notification would not be required if the member's knowledge is based on information that is privileged. (Not adopted)

LD 1084

An Act Concerning Gift Obligations, Stored-value Cards and Prefunded Bank Cards

PUBLIC 357

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VALENTINO	OTP-AM	H-624
GAGNON		

LD 1084 proposed to do the following:

1. Prohibit an issuer from placing an expiration date on a gift obligation;
2. Prohibit an issuer from charging dormancy charges or other fees, either before or after the start of the presumptive abandonment period; and
3. Establish that the abandoned amount is the face value of the gift obligation, requiring the issuer to turn that amount over to the Treasurer of State as abandoned property.

Committee Amendment "A" (H-624) proposed to replace the bill. It proposed to update definitions and prohibit any fees for gift obligations such as gift cards. It proposed to authorize prefunded bank cards be treated differently from gift obligations.

Enacted law summary

Public Law 2005, chapter 357 updates the definitions in the unclaimed property laws of "face value" and "property" to include "gift obligation," "prefunded bank card" and "stored-value card" where appropriate. It also revises the definition of "face value" to limit the deduction of service charges, fees and dormancy charges, when not prohibited, to be consistent with the other provisions of this amendment.

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Chapter 357 creates a definition of "prefunded bank card," and establishes the presumptive abandonment period as three years. The amount abandoned is 100% of the face value or balance of the prefunded bank card. The financial organization that issued the prefunded bank card may impose dormancy fees consistent with the Maine Revised Statutes, Title 33, section 1956. The terms and conditions must be disclosed in a separate writing prior to the initial issuance and must be referenced on the prefunded bank card.

Chapter 357 revises the presumptive abandonment period for gift obligations and stored-value cards to clarify that the presumptive abandonment period begins to run from the last date that activity was recorded for that gift obligation or stored-value card. It also prohibits the issuer from imposing any fees or charges on the gift obligation or stored-value card, except that the issuer may charge a transaction fee for the initial issuance and for adding value to the gift obligation or stored-value card. The transaction fees must be disclosed in a separate writing prior to the initial issuance or must be noted on the gift obligation or stored-value card. Although current law authorizes dormancy charges for other unclaimed property, dormancy charges and inactivity fees are prohibited for gift obligations and stored-value cards. The unclaimed amount of a gift obligation or stored-value card when it is turned over to the state unclaimed property account is 60% of the face value, allowing the issuer to retain the remaining 40%.

LD 1115

An Act To Facilitate Voting by Participants in the Address Confidentiality Program

PUBLIC 364

Sponsor(s)
CANAVAN
STRIMLING

Committee Report
OTP-AM

Amendments Adopted
H-625

LD 1115 proposed to facilitate voting by individuals who are participating in the Address Confidentiality Program established pursuant to the Maine Revised Statutes, Title 5, section 90-B by allowing them to use their designated addresses when registering to vote and by ensuring that their names would not appear on any voting list made available to the public.

Committee Amendment "A" (H-625) proposed to clarify that the addresses of voters certified as participants in the Address Confidentiality Program contained in files or lists pertaining to registered voters are kept under seal and protected from public inspection. The amendment proposed to include a mandate preamble.

Enacted law summary

Public Law 2005, chapter 364 facilitates voting by individuals who are participating in the Address Confidentiality Program established pursuant to the Maine Revised Statutes, Title 5, section 90-B by allowing them to use their designated addresses when registering to vote and by ensuring that their names will not appear on any voting list made available to the public. All voter registration records pertaining to such voters are confidential and maintained by registrars of voters under seal. These voters are entitled to receive absentee ballots in the mail for every election during the period of their participation in the Address Confidentiality Program. They will be allowed to place their Address Confidentiality Program voter codes on the absentee ballot envelopes in lieu of their names and addresses to protect the confidentiality of their places of residence.

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LD 1120

An Act Regarding the Reporting of Abuse and Neglect

ONTP

Sponsor(s)
GROSE

Committee Report
ONTP

Amendments Adopted

LD 1120 proposed to add to the list of people required to report suspected child abuse a staff person working at a domestic violence shelter and a professional in the field of domestic violence.

LD 1177

An Act To Limit the Early Release of Persons Convicted of Certain Crimes CARRIED OVER

Sponsor(s)
WOODCOCK

Committee Report

Amendments Adopted

LD 1177 proposed to require that before a person who has been found not criminally responsible for the crime of murder or a Class A crime by reason of mental disease or mental defect may be released from institutional commitment, the Department of Health and Human Services must identify the level of supervision needed to ensure that the person takes any medication as prescribed and complies with any other conditions of release. The bill also proposed to require that the court order for release direct the Department of Health and Human Services to provide the necessary level of supervision.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1179

An Act Concerning Persons Who Hold Durable Powers of Attorney or Act as Responsible Parties for Residents of Long-term Care Facilities

**PUBLIC 283
EMERGENCY**

Sponsor(s)
MARTIN

Committee Report
OTP-AM

Amendments Adopted
S-248

LD 1179 proposed to establish duties on the part of persons who hold durable powers of attorney or act as responsible parties for residents of long-term care facilities and provide mechanisms for enforcing those duties. The bill also proposed to permit collection of attorney's fees and costs from persons who breach the duties established by this bill.

Committee Amendment "A" (S-248) proposed to replace the bill and convert the bill into emergency legislation. It proposed to provide specific language authorizing a petition for a protective order from the Probate Court to initiate court consideration, accounting and remediation of actions taken by a person responsible for the property or affairs of another person.

Enacted law summary

Public Law 2005, chapter 283 provides specific language authorizing a petition for a protective order from the Probate Court to initiate court consideration, accounting and remediation of actions taken by a person responsible

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for the property or affairs of another person, referred to as the principal. Chapter 283 lists the information that must be included in the petition, including facts describing how the petitioner has been adversely affected by the lack of management of the principal's property or affairs.

Public Law 2005, chapter 283 was enacted as an emergency measure effective June 1, 2005.

LD 1196

An Act To Extend Civil Rights Protections to All People Regardless of Sexual Orientation

PUBLIC 10

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TURNER	OTP A	H-92 FISCHER
	OTP-AM B	
	ONTP C	

LD 1196 proposed to forbid the denial of rights in employment, housing, public accommodations, credit and education opportunity to individuals based on their sexual orientation.

Committee Amendment "A" (S-38), the minority report of the Joint Standing Committee on Judiciary, proposed to add a referendum section that requires approval by the voters before the law becomes effective. (Not adopted)

House Amendment "A" (H-82) proposed to provide that if the Maine Human Rights Commission does not find reasonable grounds to believe unlawful discrimination occurred, it shall order the claimant to pay the reasonable attorney's fees and costs of the other party. (Not adopted)

House Amendment "B" (H-83) proposed to remove the phrase "bona fide" in order to extend the exemptions for educational facilities to those owned by all religious corporations, associations or societies. It also proposed to require that a person who alleges discrimination on the basis of sexual orientation specifically plead and prove the nature of the person's sexual orientation. (Not adopted)

House Amendment "C" (H-84) proposed to add a referendum section that requires approval by the voters before the law becomes effective. (Not adopted)

House Amendment "D" (H-85) proposed to provide that the bill may not be construed as preempting the provisions of law that prohibit same-sex marriage. (Not adopted)

House Amendment "E" (H-86) proposed to provide that the Maine Human Rights Act may not be construed to permit a person to use a locker room or the bathroom facilities of a public rest room designated for use for a gender other than the gender of that person at birth unless the person has undergone a medical procedure to change the person's gender. (Not adopted)

House Amendment "F" (H-87) proposed to provide that it is not unlawful employment discrimination for an employer to set a dress code of appropriate attire to be worn in the workplace. An employer may specify attire in that dress code that is different based on gender. (Not adopted)

House Amendment "G" (H-88) proposed to change the definition of "sexual orientation" to mean a person's actual or perceived homosexuality. (Not adopted)

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House Amendment "H" (H-89) proposed to provide that if the Maine Human Rights Commission does not find reasonable grounds to believe unlawful discrimination occurred, it shall order the claimant to pay the reasonable attorney's fees and costs of the other party. (Not adopted)

House Amendment "I" (H-92) proposed to provide that the bill may not be construed to change any right to marry that exists under the United States Constitution, the Maine Constitution or any law of this State.

House Amendment "J" (H-94) proposed to remove the requirement that a religious corporation, association or organization not receive public funds in order to qualify for an exemption from the provisions of the Maine Human Rights Act that proposed to make discrimination on the basis of sexual orientation in employment, housing and educational opportunity unlawful. It also proposed to remove language that provides that any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemption in the Maine Human Rights Act for certain religious organizations. (Not adopted)

House Amendment "K" (H-95) proposed to provide that an employer may ask an employee after that employee is hired to identify that employee's sexual orientation. Information provided by an employee would be confidential and may be used only to ensure that that employee is not discriminated against in the workplace. This amendment also proposed to require an employee to notify an employer if that employee's sexual orientation changes. (Not adopted)

Senate Amendment "A" (S-44) proposed to make the provisions of the bill contingent upon the approval of the voters at a referendum. (Not adopted)

Senate Amendment "B" (S-48) proposed to provide that if the Maine Human Rights Commission does not find reasonable grounds to believe unlawful discrimination occurred, it shall order the claimant to pay the reasonable attorney's fees and costs of the other party. (Not adopted)

Enacted law summary

Public Law 2005, chapter 10 prohibits the denial of rights in employment, housing, public accommodations, credit and education opportunity to individuals based on their sexual orientation. Chapter 10 includes an unallocated construction section that provides that the Act may not be construed to change any right to marry that exists under the United States Constitution, the Maine Constitution or any law of this State.

Pursuant to Article IV, Part Third, Section 17 of the Maine Constitution, Public Law 2005, Chapter 10, although scheduled to take effect June 29, 2005, was stayed pending certification of the validity of the "People's Veto" petition which was approved for circulation April 7, 2005. If the petition is determined valid by the Secretary of State, the question of whether to reject Public Law 2005, Chapter 10 will appear on the November 8, 2005 ballot. If the petition is determined to be invalid, the law takes effect on the day following the determination.

Joint Standing Committee on Judiciary

LD 1202 **Resolve, To Study the Accessibility of Birth Certificates and Other Vital Records** **RESOLVE 107**

<u>Sponsor(s)</u> BRENNAN FARRINGTON	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 1202 proposed to require the Department of Health and Human Services, Office of Vital Records to study the effects of the freedom of access laws on the ability of registrars to restrict access to vital records, such as certificates of birth, death and marriage. The purpose of the study is to reduce identity theft and preserve the rights of adoptees while balancing the right of the public to access certain records.

Enacted law summary

Resolve 2005, chapter 107 requires the Department of Health and Human Services, Office of Vital Records to study the effects of the freedom of access laws on the ability of registrars to restrict access to vital records, such as certificates of birth, death and marriage. The purpose of the study is to reduce identity theft and preserve the rights of adoptees while balancing the right of the public to access certain records.

LD 1203 **An Act To Amend the Laws Concerning Eminent Domain** **CARRIED OVER**

<u>Sponsor(s)</u> SCHNEIDER CROSBY	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1203 proposed to require the Department of Transportation to pay 110% of the appraised value of property taken by eminent domain. It proposed to direct the Commissioner of Transportation and the Commissioner of Economic and Community Development to convene a working group to develop recommendations to assist businesses that are displaced due to eminent domain acquisitions.

See also LD 1297.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1210 **An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships** **PUBLIC 302**

<u>Sponsor(s)</u> HOBBINS RICHARDSON J	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-247
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Joint Standing Committee on Judiciary

LD 1210 proposed to make minor technical changes to the Maine Revised Statutes, Title 13-B to make signature requirements consistent with other entity laws and add definitions for electronic filing.

The bill proposed to amend the Maine Business Corporation Act: to clarify the law concerning amendments to a plan of merger; to provide greater consistency with the model act; to remove unnecessary language; to correct a cross-reference; and to clarify how the court may grant relief. It also proposed to add necessary definitions to modernize the laws relating to electronic filing for limited partnerships, limited liability companies and limited liability partnerships.

Committee Amendment "A" (S-247) proposed to correct cross-references within the Maine Limited Liability Company Act and the Maine Limited Liability Partnership Act. It also proposed to add language to both acts to conform them to the Maine Professional Service Corporation Act in the Maine Revised Statutes, Title 13.

Enacted law summary

Public Law 2005, chapter 302 makes minor technical changes to the Maine Revised Statutes, Title 13-B to make signature requirements consistent with other entity laws and adds definitions for electronic filing. It amends the Maine Business Corporation Act: to clarify the law concerning amendments to a plan of merger; to provide greater consistency with the model act; to remove unnecessary language; to correct a cross-reference; and to clarify how the court may grant relief. It also adds necessary definitions to modernize the laws relating to limited partnerships, limited liability companies and limited liability partnerships for electronic filing. Chapter 302 also corrects cross-references within the Maine Limited Liability Company Act and the Maine Limited Liability Partnership Act, and adds language to both acts to conform them to the Maine Professional Service Corporation Act in the Maine Revised Statutes, Title 13.

LD 1212 An Act To Amend the Laws Governing the Effect of Foreclosure of PUBLIC 275
a Tax Lien on Time-share Estates

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS	OTP-AM	H-467
NASS R		

LD 1212 proposed to provide that a governmental entity that acquires ownership of a time-share unit for reasons of tax delinquency may not be assessed for its share of common expenses chargeable to any unit during the period the governmental entity owns the time share.

Committee Amendment "A" (H-467) proposed to replace the bill and provide that a governmental entity that acquires ownership of a time-share estate for reasons of tax delinquency may not be charged for the share of common expenses chargeable to the time-share estate during the period the governmental entity owns the time-share estate unless the property is used by the entity. Although liens for prior unpaid common expenses will be extinguished as a result of the foreclosure by the governmental entity, the amendment proposed that all common expenses that accrue during the period of the governmental entity's ownership may be charged to a purchaser of a foreclosed time-share estate when the purchaser obtains title to the unit from the governmental entity.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2005, chapter 275 provides that a governmental entity that acquires ownership of a time-share estate for reasons of tax delinquency may not be charged for the share of common expenses chargeable to the time-share estate during the period the governmental entity owns the time-share estate unless used by the entity. Although liens for prior unpaid common expenses will be extinguished as a result of the foreclosure by the governmental entity, all common expenses that accrue during the period of the governmental entity's ownership may be charged to a purchaser of a foreclosed time-share estate when the purchaser obtains title to the unit from the governmental entity. The governmental entity must disclose in writing to a prospective purchaser that the purchaser may be charged for the common expenses accrued while the governmental entity owned the time-share estate.

LD 1229 An Act To Strengthen the Enforcement of Divorce Decrees CARRIED OVER

<u>Sponsor(s)</u> MCKENNEY		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1229 proposed to enhance the sanctions available for violations of parental rights and responsibilities orders, particularly concerning contact between the child and the parent who does not provide the primary residence of the child. It also proposed to direct the Governor to designate an appropriate state agency to develop a parenting time enforcement program.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

**LD 1232 An Act To Protect Children from Individuals Who Have Engaged PUBLIC 366
in Sexual Abuse of Children in the Past**

<u>Sponsor(s)</u> FAIRCLOTH		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-655
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LD 1232 proposed to provide that when a court finds that a person has been convicted of certain sexual offenses in which the victim was under 14 years of age, there is a rebuttable presumption that that person would create a situation of jeopardy for the child if any contact were to be permitted and that any contact is not in the best interest of the child.

Committee Amendment "A" (H-655) proposed to replace the bill. It proposed to revise the presumption of jeopardy to apply when the person seeking adoption, contact, primary residence, custody or visitation has any of a number of specific convictions for sexual abuse of a minor. The amendment proposed to limit the convictions to crimes committed when the person was at least five years older than the victim at the time of the abuse, except that a conviction for gross sexual assault of a child under 14 years of age or under 12 years of age results in the presumption if the child submitted because of compulsion, regardless of the age difference.

This amendment also proposed to add a parallel provision in the child protection laws relating to the hearing and disposition of jeopardy petitions.

Enacted law summary

Joint Standing Committee on Judiciary

Public Law 2005, chapter 366 provides that when a court finds that a person has been convicted of certain sexual offenses in which the victim was a minor, there is a rebuttable presumption that that person would create a situation of jeopardy for a child if any contact were to be permitted and that any contact is not in the best interest of the child. The presumption of jeopardy applies when the person seeking adoption, contact, primary residence, custody or visitation has any of a number of specific convictions for sexual abuse of a minor. The crimes are the same offenses for which special provisions apply when courts are ordering custody, contact or primary residence under the adoption laws, parental rights and responsibilities laws, grandparent visitation laws and the child protective laws. The crimes are limited to crimes committed when the person was at least five years older than the victim at the time of the abuse, except that a conviction for gross sexual assault of a child under 14 years of age or under 12 years of age results in the presumption if the child submitted because of compulsion, regardless of the age difference. The person seeking the contact, custody or primary residence may produce evidence to rebut the presumption. Chapter 366 contains a parallel provision in the child protection laws relating to the hearing and disposition of jeopardy petitions. It provides a rebuttable presumption that there is jeopardy with regard to a parent or other person responsible for the child who allows, encourages or fails to prevent contact between the child and a person who has been convicted of one of the listed offenses. The same presumption arises when the person has been adjudicated in a child protection action under Title 22, chapter 1071 of having sexually abused a minor. The parent or other person responsible for the child may produce evidence to rebut the presumption.

LD 1245 **Resolve, To Increase Safety for Domestic Abuse Victims** **ONTP**

<u>Sponsor(s)</u> BARSTOW HOBBINS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1245 proposed to direct the Office of the Attorney General and the Department of Public Safety to study ways to increase safety for domestic abuse victims and to submit a report to the Second Regular Session of the 122nd Legislature by December 7, 2005.

LD 1248 **An Act Regarding the Initiation of Cases of Murder and Class A, B and C Crimes in Superior Court by Complaint** **PUBLIC 326**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-498
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LD 1248 proposed to make statutory changes to the Maine Criminal Code in light of recent amendments to the Maine Rules of Criminal Procedure that eliminate the need for a bind-over hearing by starting a case that involves murder or at least one Class A, Class B or Class C crime, accompanied or unaccompanied by related Class D or Class E crimes, in the Superior Court rather than the District Court.

Committee Amendment "A" (H-498) proposed to remove the District Court's jurisdiction to bind over for the Grand Jury certain crimes. This amendment proposed to add an effective date to make the bill take effect January 1, 2006, which is the effective date of the amendments to the Maine Rules of Criminal Procedure related to this bill that were recently adopted by the Supreme Judicial Court. The rules will not eliminate the bind-over

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jurisdiction of the District Court until July 1, 2006 to allow the existing cases to be handled by the existing system.

Enacted law summary

Public Law 2005, chapter 326 makes statutory changes to the Maine Criminal Code in light of recent amendments to the Maine Rules of Criminal Procedure that eliminate the need for a bind-over hearing by starting a case that involves murder or at least one Class A, Class B or Class C crime, accompanied or unaccompanied by related Class D or Class E crimes, in the Superior Court rather than the District Court. Such a case is commenced by filing a criminal complaint directly in the Superior Court, unless an indictment has already been returned or an information filed, except as to a murder charge. The Superior Court will be responsible for conducting probable cause determinations to comply with County of Riverside v. McLaughlin, 500 U.S. 44 (1991) in these cases as well. Chapter 326 removes the District Court's jurisdiction to bind over for the Grand Jury certain crimes. It includes an effective date to make the bill take effect January 1, 2006, which is the effective date of the amendments to the Maine Rules of Criminal Procedure related to this bill that were recently adopted by the Supreme Judicial Court. The rules will not eliminate the bind-over jurisdiction of the District Court until July 1, 2006 to allow the existing cases to be handled by the existing system.

LD 1274 **An Act To Allow Indian Tribes To Operate Slot Machines** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SOCKALEXIS BRYANT B	ONTP	

LD 1274 proposed to allow a federally recognized Indian tribe that holds a high-stakes beano license to operate up to 1,500 slot machines in the same facility in which the high-stakes beano is held. This bill was referred to and voted upon by the Joint Standing Committee on Legal and Veterans' Affairs.

LD 1275 **An Act To Protect Certain Private Information Submitted to Municipalities** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BIERMAN SCHNEIDER	ONTP MAJ OTP-AM MIN	

LD 1275 proposed to exempt electronic mail, or e-mail, addresses of individuals obtained by municipalities from public records that are subject to the freedom of access laws unless the municipality obtains the express permission of the individual to release the e-mail address.

Committee Amendment "A" (H-651), the minority report of the Joint Standing Committee on Judiciary, proposed to revise the language of the bill to provide that an electronic mail address of an individual collected by a municipality is not a public record if the individual requests that it not be disclosed separately or as part of a database or other aggregation of data.

Joint Standing Committee on Judiciary

LD 1285

Resolve, Directing the Secretary of State To Develop a Titling System for Mobile Homes

RESOLVE 103

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMAS	OTP-AM MAJ	H-580
PLOWMAN	ONTP MIN	

LD 1285 proposed to direct the Secretary of State to develop a titling system for new mobile homes and present a proposal to the Second Regular Session of the 122nd Legislature.

Committee Amendment "A" (H-580), the majority report of the Joint Standing Committee on Judiciary, proposed to add the Manufactured Housing Board to the list of stakeholders the Secretary of State may invite to participate in developing a titling system for mobile homes.

Enacted law summary

Resolve 2005, chapter 103 directs the Secretary of State to develop a titling system for new mobile homes. The Department of the Secretary of State is directed to present a proposal to the Second Regular Session of the 122nd Legislature.

Joint Standing Committee on Judiciary

LD 1288 **An Act To Reduce Costs and Improve Efficiency of the Maine Criminal Justice System** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BURNS CLUKEY		

LD 1288 proposed to require the State Court Administrator to provide for the transposition of all criminal records of Maine courts to electronic format by July 1, 2006. The bill proposed that after that date, a criminal record made by a court must be transposed to electronic format within one week of the making of the record.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1294 **RESOLUTION, Proposing an Amendment to the Constitution of Maine To Define Marriage** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY SNOWE-MELLO	ONTP MAJ OTP-AM MIN	

LD 1294 proposed to provide that only a union between one man and one woman may be a marriage valid in or recognized by this State and its political subdivisions. This constitutional resolution also proposed to provide that this State and its political subdivisions may not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage.

Committee Amendment "A" (H-648), the minority report of the Joint Standing Committee on Judiciary, proposed to delete the language of the constitutional resolution that provides that the State and its political subdivisions may not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage. (Not adopted)

House Amendment "A" to Committee Amendment "A" (H-659) proposed to amend the committee amendment to strike the definition of marriage proposed in the constitutional resolution and replace it with language providing that the Legislature has the exclusive authority to define marriage and eligibility for marriage under the laws of the State. (Not adopted)

LD 1296 **An Act To Provide for Victims of Trafficking** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE		

LD 1296 is a concept draft pursuant to Joint Rule 208. It proposed to enact two types of legislative initiatives to combat the trafficking of human beings across borders and into the State for sexual and labor exploitation.

Joint Standing Committee on Judiciary

1. This bill proposed amend the criminal laws to enact a comprehensive antitrafficking law that would criminalize certain activity and hold responsible landowners and employers who knew or should have known that trafficking was occurring on premises over which the landowner or employer exerted control.
2. This bill proposed to establish a task force of experts to determine the nature and extent of trafficking in the State and make recommendations for legislative, policy and programmatic initiatives.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1297 An Act To Provide Just Compensation for Established Businesses CARRIED OVER During Eminent Domain Proceedings

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT-DESCHENE		

LD 1297 proposed to provide that in certain eminent domain proceedings, established businesses are entitled to compensation for the loss of business profits and income resulting from the taking of the land that is the subject of the eminent domain proceedings.

See also LD 1203.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1320 An Act To Amend the Child and Family Services and Protection PUBLIC 374 Act

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN	OTP-AM	H-611 H-656 PELLETIER- SIMPSON

LD 1320 proposed to amend the Child and Family Services and Child Protection Act in the following ways:

1. It proposed to list the priorities of the Department of Health and Human Services in child protection matters as preservation of the family first, placement of the child with the closest appropriate next of kin second and placement in foster care only as a last resort;
2. It proposed to make child protection records open to the public except in cases when a court determines the records should be sealed due to sexually explicit content;
3. It proposed to make people liable for the crime of false public report for reports of suspected child abuse or neglect to the Department of Health and Human Services if the reports, including the identification of the people, are inaccurate and malicious; and

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4. It proposed to make Department of Health and Human Services employees in child protective matters civilly and criminally liable for conduct with malicious intent or for severe dereliction of duty. It also proposed to create a commission to study the standard for when the termination of parental rights is appropriate.

Committee Amendment "A" (H-611) proposed to replace the bill. It proposed to amend the purposes of the Child and Family Services and Protection Act to include placement of a child with an adult relative when possible when the child has been removed from the custody of the child's parents. It also proposed to provide that a person making an oral report regarding abuse or neglect of a child who does not believe the report to be true commits a Class E crime

House Amendment "A" to Committee Amendment "A" (H-656) proposed to remove the provision that provides that a person making an oral report regarding abuse or neglect of a child who does not believe the report to be true commits a Class E crime.

Enacted law summary

Public Law 2005, chapter 374 amends the purposes of the Child and Family Services and Protection Act to include placement of a child with an adult relative when possible when the child has been removed from the custody of the child's parents.

LD 1365

An Act To End Discrimination

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN PERCY	ONTP	

LD 1365 proposed to provide that all citizens, regardless of their sexual orientation, have the same civil rights protections now guaranteed in employment, housing, public accommodations and credit to citizens on the basis of race, color, religion, sex, age, national origin and physical or mental handicap. The bill proposed that a religious organization that does not receive public funds would be exempt from the prohibition against discrimination based on sexual orientation. The bill proposed language stating that this change in the Maine Human Rights Act does not confer legislative approval of or special rights to anyone or any group.

See also LD 1196.

LD 1372

**RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Establish a Victims' Bill of Rights**

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLETT HASTINGS		

LD 1372 proposed to amend the Constitution of Maine to enact a Victims' Bill of Rights, designed to ensure specific rights for victims of crime.

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This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1378

An Act To Amend the Medical Liability Laws Concerning Communications of Sympathy or Benevolence

PUBLIC 376

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TURNER SAVIELLO	OTP-AM	S-323

LD 1378 proposed to establish the types of and limit of damages available in medical malpractice actions. Compensatory damages that are economic damages would be unlimited. Compensatory damages that are noneconomic damages would be limited to \$250,000. Punitive damages would be limited to \$75,000. It proposed to prevent a health care practitioner's or health care provider employee's statement of sympathy or apology to a patient who has suffered an unanticipated medical outcome from being used against the practitioner or employee in a medical malpractice action.

The bill proposed to require the findings of the prelitigation screening panels to specify the damages attributable to the defendant or defendants in a medical malpractice action.

The bill proposed to provide that each defendant in a civil action is liable only for damages in direct proportion to the defendant's percentage of fault.

Committee Amendment "A" (S-323) proposed to replace the bill, but retain the bulk of the proposed language on communications of sympathy or benevolence. This amendment proposed to change the terminology to cover "civil actions for professional negligence" to be consistent with the rest of the Maine Health Security Act. This amendment also proposed to delete the term "fault" from the listing of subjects of communications expressed by a health care practitioner or provider or an employee of either in a medical liability case to the plaintiff or the plaintiff's relatives that are not admissible as evidence of an admission of liability or as an admission against interest. This amendment proposed to specifically provide that the section does not prohibit the admissibility of a statement of fault.

Enacted law summary

Public Law 2005, chapter 376 prevents a health care practitioner's or health care provider employee's statement of sympathy or apology to a patient who has suffered an unanticipated medical outcome from being used against the practitioner or employee in a civil action for professional negligence.

LD 1394

An Act To Require That Judicial Hearings Be Conducted in Hospitals Providing Involuntary Inpatient Psychiatric Services

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN MARLEY	ONTP	

Joint Standing Committee on Judiciary

LD 1394 proposed to require that an involuntary commitment hearing for a person who has been admitted to a hospital must be held in that hospital.

LD 1402

**An Act To Provide Guidelines, Standards and Rights for Children
and the Guardians Who Care for Them**

PUBLIC 371

Sponsor(s)
ROSEN R

Committee Report
OTP-AM

Amendments Adopted
S-326

LD 1402 proposed to give standing to "de facto guardians" to seek appointment as guardians of minor children, with or without the consent of the parents. The bill proposed that the Probate Court consider factors that establish the person as a de facto guardian, including actual custody and parenting of the child without legal formalities, and consider whether the appointment is in the best interests of the child. This bill is modeled on Minnesota de facto custodian law.

Committee Amendment "A" (S-326) proposed to replace the bill. It proposed to add three concepts to the definitional section of the article of the Probate Code governing guardians. It proposed to add specific language concerning the appointment of coguardians, and to provide for appointment of persons who qualify as de facto guardians as legal guardians if the appointment is in the best interest of the child. It proposed to allow the Probate Court to appoint counsel for an indigent de facto guardian, guardian or petitioner in a contested appointment proceeding when the parent or legal custodian has counsel, and to allow the Probate Court to order a parent to pay child support when a de facto guardian is appointed guardian for the child. The amendment proposed to require the court to set forth in all orders making appointments of guardians the basis for determining that the appointment is in the best interest of the child. The amendment proposed to provide that when a person seeks to terminate a guardianship against the guardian's consent, the person seeking to change the status quo has the burden of proving by a preponderance of the evidence that the termination of the guardianship is in the best interest of the ward. In a contested termination proceeding, the amendment proposed to allow the court to appoint counsel for any indigent guardian or petitioner.

Enacted law summary

Public Law 2005, chapter 371 gives standing to "de facto guardians" to seek appointment as guardians of minor children, with or without the consent of the parents. The Probate Court will consider factors that establish the person as a de facto guardian, including actual custody and parenting of the child without legal formalities, and consider whether the appointment is in the best interests of the child.

Chapter 371 adds definitions of "best interest of the child," "de facto guardian" and "demonstrated lack of consistent participation." It adds specific language concerning the appointment of coguardians, and adds a new provision to provide for appointment of persons who qualify as de facto guardians as legal guardians if the appointment is in the best interest of the child. The appointment may be made without the consent of the parents or legal custodians otherwise required to consent to a guardianship.

Chapter 371 allows the Probate Court to appoint counsel for an indigent de facto guardian, guardian or petitioner in a contested appointment proceeding when the parent or legal custodian has counsel. It also authorizes the Probate Court to order a parent to pay child support when a de facto guardian is appointed guardian for the child.

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Chapter 371 requires the court to set forth in all orders making appointments of guardians the basis for determining that the appointment is in the best interest of the child. It also provides that when a person seeks to terminate a guardianship against the guardian's consent, the person seeking to change the status quo has the burden of proving by a preponderance of the evidence that the termination of the guardianship is in the best interest of the ward. In a contested termination proceeding, the court may appoint counsel for any indigent guardian or petitioner.

LD 1405

An Act To Prepare Maine for Public Health Emergencies

PUBLIC 383

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO MILLER	OTP-AM	S-336

LD 1405 proposed to amend the laws regarding the control of communicable diseases in the following ways:

1. To remove the repeal of the laws regarding the ability of the Department of Health and Human Services to respond to an extreme public health emergency;
2. To allow for isolation or quarantine in a private home;
3. To grant the department rulemaking authority to address workforce needs and the need for dispensing drugs in an emergency situation;
4. To remove reference to the term "medical provider" and clarify reporting requirements of medical laboratories;
5. To rename the chapter to acknowledge that notifiable conditions include communicable, environmental and occupational diseases;
6. To eliminate the Medical Legal Advisory Panel;
7. To clarify that protected health information may be disclosed to health providers in the event of an actual or threatened outbreak or epidemic as declared by the Director of the Bureau of Health;
8. To clarify that, under the Maine Medical Laboratory Act, licensed and unlicensed laboratories have public health reporting requirements; and
9. To provide employment protection in an extreme public health emergency by protecting from unfavorable employment actions an employee who has been quarantined or isolated or who provides care to someone who has been isolated or quarantined during an extreme public health emergency.

Committee Amendment "A" (S-336) proposed to: revise the language concerning the adoption of rules pertaining to extreme public health emergencies; clarify the provision amending inspection requirements; designate rules regarding health care workers and the dispensing of drugs in an extreme public health emergency as major substantive rules; clarify that in the event of an actual or threatened epidemic or outbreak the Department of Health and Human Services, Bureau of Health may share only the amount of information necessary with health and human services providers for the purpose of carrying out their public health functions; clarify that

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employers have a hardship exemption and that the leave and related benefits apply only during an extreme public health emergency, or to diseases or conditions that are contracted or exposures that occur during the extreme public health emergency; clarify that the investigation that an individual may be subject to in order to qualify for leave is a public health investigation, as opposed to a potential criminal investigation for causing the extreme public health emergency; allow an employee to miss work only to care for the employee's spouse or domestic partner, the employee's parent or the employee's child; provide that the employer has a right to ask for and receive written documentation from a physician or public health official supporting the employee's leave once the employee returns to work; limit the duration of leave to the time period of the extreme public health emergency as well as a reasonable and necessary time period following for diseases or conditions contracted or exposures that occurred during the emergency; and provide that the leave does not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees.

Enacted law summary

Public Law 2005, chapter 383 amends the laws regarding the control of communicable diseases in the following ways.

1. It removes the repeal of the laws regarding the ability of the Department of Health and Human Services to respond to an extreme public health emergency.
2. It allows for isolation or quarantine in a private home.
3. It grants the department rulemaking authority to address workforce needs and the need for dispensing drugs in an emergency situation.
4. It removes reference to the term "medical provider" and clarifies reporting requirements of medical laboratories. "Medical provider," which is undefined, is replaced with "health care provider" and medical laboratories are added to the list of those from whom the department may request information in an extreme public health emergency.
5. The chapter has been renamed to acknowledge that notifiable conditions include communicable, environmental and occupational diseases. It provides definitions of "public health threat" and "notifiable disease or condition" to allow for reporting related to toxins or other agents that could have serious implications either in the severity of the impact on individuals or potential for impact on a large number of people.
6. It eliminates the Medical Legal Advisory Panel.
7. It clarifies that protected health information may be disclosed to health providers in the event of an actual or threatened outbreak or epidemic as declared by the Director of the Bureau of Health.
8. It clarifies that, under the Maine Medical Laboratory Act, licensed and unlicensed laboratories have public health reporting requirements. This provision requires all laboratories that receive, forward or analyze specimens of materials from the human body or referred cultures of specimens from the human body and report the results to health care providers who use the data for purposes of patient care to comply with the law regarding control and reporting of notifiable diseases and conditions. This provision allows compliance with these requirements to be considered when laboratories are evaluated and applications for licenses or renewals are considered.

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9. It provides employment protection in an extreme public health emergency by protecting from unfavorable employment actions an employee who has been quarantined or isolated or who provides care to someone who has been isolated or quarantined during an extreme public health emergency. The proposal is modeled after legislation that was passed in Toronto as a result of SARS and draws from several Maine laws providing employment protection to those who are victims of abuse, on family medical leave or serving in the military. Chapter 383 provides that employers have a hardship exemption; the leave and related benefits apply only during an extreme public health emergency, or to diseases or conditions that are contracted or exposures that occur during the extreme public health emergency. The leave does not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. For any leave beyond the defined period, the employer must make it possible for the employee to retain employee benefits at the employee's expense, although the employer and employee may negotiate for the employer to maintain the benefits at the employer's expense.

LD 1409

An Act To Assist in the Investigation and Prosecution of Theft Offenses

PUBLIC 320

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN K SNOWE-MELLO	OTP-AM	H-499

LD 1409 proposed to permit local law enforcement agencies to consolidate theft investigations in multiple jurisdictions in order to simplify the investigative aspects of theft crimes, to conserve limited economic and time resources of the agencies and to strengthen the deterrent effect of successful investigations and prosecutions of theft crimes.

Committee Amendment "A" (H-499) proposed to expand the proposed authority of police officers to investigate and assist in the prosecution of related crimes to include, in addition to theft, forgery and negotiating a worthless instrument. The amendment proposed that the multijurisdictional cooperation must first be expressly authorized by the police officer's municipal officers.

Enacted law summary

Public Law 2005, chapter 320 permits local law enforcement agencies to consolidate theft, forgery and negotiating a worthless instrument investigations in multiple jurisdictions in order to simplify the investigative aspects of the crimes, to conserve limited economic and time resources of the agencies and to strengthen the deterrent effect of successful investigations and prosecutions of these crimes. The multijurisdictional cooperation must first be expressly authorized by each police officer's municipal officers.

LD 1415

An Act Regarding Confidentiality in Litigation

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFISKY BRYANT B	ONTP	

Joint Standing Committee on Judiciary

LD 1415 proposed to require that professional competence review records that contain information that directly identifies a patient are considered part of the patient's health care information, must be provided protection under the laws of this State as well as under the federal Health Insurance Portability and Accountability Act of 1996 and must be available to the patient. The bill proposed to prohibit the subject of a medical malpractice complaint and the subject's attorneys from contacting the physician of the medical malpractice claimant except as authorized by the claimant's attorney.

LD 1421 **An Act To Address the Constitutionality of Maine's Resident-only Lobster License** **PUBLIC 354**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE	OTP-AM	H-544

LD 1421 proposed to create four new types of lobster licenses: nonresident Class I, nonresident Class II, nonresident Class III and nonresident apprentice. In order to become eligible to obtain a nonresident Class I, II or III license, an individual would have to meet the requirements of the apprenticeship program under the Maine Revised Statutes, Title 12, section 6422 or section 6475.

Committee Amendment "A" (H-544) proposed to incorporate a fiscal note.

Enacted law summary

Public Law 2005, chapter 354 creates four new types of lobster licenses: nonresident Class I, nonresident Class II, nonresident Class III and nonresident apprentice. In order to become eligible to obtain a nonresident Class I, II or III license, an individual would have to meet the requirements of the apprenticeship program under the Maine Revised Statutes, Title 12, section 6422 or section 6475.

Joint Standing Committee on Judiciary

LD 1455

An Act To Codify Public Records Exceptions

CARRIED OVER

Sponsor(s)

Committee Report

Amendments Adopted

LD 1455 proposed to meet the requirements of Public Law 2003, chapter 709, section 9, by listing statutes that by designating records or information as confidential remove the records or information from the definition of "public record" in the freedom of access laws.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1474

An Act To Require That Corporations Be Operated in a Manner That Does Not Adversely Affect the Public Interest

ONTP

Sponsor(s)

EDER
STRIMLING

Committee Report

ONTP

Amendments Adopted

LD 1474 proposed to impose a duty on directors and officers of a corporation formed under the laws of the State to act in a manner that is not injurious to the environment, human rights, public health or safety, the welfare of the communities in which the corporation operates or the dignity of the corporation's employees.

The bill proposed that if 25 other states enact similar legislation and if the consolidated annual revenues of a corporation exceed \$15,000,000, that corporation, its officers and its directors may be held liable for damages resulting from actions that cause damage to the public interest.

LD 1479

An Act To Ensure Systematic Reporting of Abortions

ONTP

Sponsor(s)

DAVIS P
BOWLES

Committee Report

ONTP

Amendments Adopted

LD 1479 proposed to require physicians who perform abortions or treat patients in connection with abortions to report annually to the Department of Health and Human Services on forms developed by the department. It also proposed to require physicians who encounter an illness or injury that is related to an induced abortion to complete and submit an induced abortion complication report form to the department. It proposed to require the department to issue annually a public report that provides information compiled from the forms filed with the department.

Joint Standing Committee on Judiciary

LD 1495

An Act To Limit Corporate Influence Over the Political Process

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY BROMLEY	ONTP	

LD 1495 proposed to change the definition of "person" for purposes of the Maine Business Corporation Act to specify that "person" means a natural person and not an entity such as a corporation, a state, the United States or a foreign government. The bill would therefore prohibit a corporation from engaging in political speech or activity using funds of the corporation, unless those funds are from a segregated account established specifically for the purpose of funding political speech or activity.

LD 1501

**An Act To Prevent Domestic Abuse by Reinstating the Death
Penalty for Persons Who Murder Family or Household Members**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COURTNEY	ONTP MAJ OTP-AM MIN	

LD 1501 proposed to reinstate the death penalty only for persons who murder family or household members.

Committee Amendment "A" (S-301), the minority report of the Joint Standing Committee on Judiciary, proposed to add an appropriations and allocations section. (Not adopted)

LD 1502

**An Act To Implement Recommendations of the Family Law
Advisory Commission**

PUBLIC 323

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-500

LD 1502 proposed to put into law recommendations of the Family Law Advisory Commission. It proposed to authorize a court to order payment of attorney's fees and costs while an action under the Maine Revised Statutes, Title 19-A is proceeding or when the action is completed. The bill proposed to delete attorney's fees provisions throughout Title 19-A that are duplicative. It proposed to add a family case management officer and a representative of the Judicial Branch's Court Alternative Dispute Resolution Service to the membership of the Family Law Advisory Commission. It proposed to allow for the closure of proceedings upon the request of one or more of the parties. It proposed to amend the definition of "decree of spousal support, support or costs" to include an order for the division and disposition of property connected to a divorce judgment, including, among other actions, proceedings to effectuate a qualified domestic relations order, to reach, attach or liquidate property or to quiet title. The bill also proposed to allow the court to order either parent to provide health insurance coverage for the child.

Committee Amendment "A" (H-500) proposed to delete from the bill the language authorizing closure from the public of any proceeding under the Maine Revised Statutes, Title 19-A at the request of one or more parties.

Joint Standing Committee on Judiciary

Enacted law summary

Public Law 2005, chapter 323 puts into law recommendations of the Family Law Advisory Commission. It authorizes a court to order payment of attorney's fees and costs while an action under the Maine Revised Statutes, Title 19-A is proceeding or when the action is completed. Current law authorizes attorney's fees in only limited types of family law actions. The court may order a party to pay the fees and expenses of 3rd-party participants, including guardians ad litem, expert witnesses and service providers. The costs of prosecuting a collection action may also be awarded. Chapter 323 deletes attorney's fees provisions throughout Title 19-A that are duplicative. It adds a family case management officer and a representative of the Judicial Branch's Court Alternative Dispute Resolution Service to the membership of the Family Law Advisory Commission. It amends the definition of "decree of spousal support, support or costs" to include an order for the division and disposition of property connected to a divorce judgment, including, among other actions, proceedings to effectuate a qualified domestic relations order, to reach, attach or liquidate property or to quiet title. Chapter 323 allows the court to order either parent to provide health insurance coverage for the child.

LD 1512

Resolve, Directing the Bureau of Health To Study Additional Information about Abortions

RESOLVE 114

Sponsor(s)
DAIGLE

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted
H-664

LD 1512 proposed to direct the Department of Health and Human Services, Bureau of Health to study the effectiveness and quality of reproductive counseling for women considering an abortion.

Committee Amendment "A" (H-664) proposed to replace the resolve and direct the Department of Health and Human Services, Bureau of Health to study additional data that could be collected within existing resources that would help reduce the number of unintended pregnancies and abortions. The amendment proposed that the Bureau of Health report to the Joint Standing Committee on Judiciary by January 15, 2006.

Enacted law summary

Resolve 2005, chapter 114 directs the Department of Health and Human Services, Bureau of Health to study additional data that could be collected within existing resources that would help reduce the number of unintended pregnancies and abortions. The Bureau of Health shall report to the Joint Standing Committee on Judiciary by January 15, 2006. The Joint Standing Committee on Judiciary may report out legislation in response to the report.

LD 1518

An Act To Increase Access to Justice in Maine's Court System

CARRIED OVER

Sponsor(s)
RICHARDSON J
EDMONDS

Committee Report
OTP-AM

Amendments Adopted
H-620

Joint Standing Committee on Judiciary

LD 1518 proposed to establish the Consumer and Commercial Division pilot project within the Maine court system beginning January 1, 2006, to administer and resolve disputes regarding issues related to business activity in a coordinated, responsive and speedy manner and to afford convenient and timely access for consumers, entrepreneurs, attorneys and any other party involved with business activity. The bill also proposed to establish the Consumer and Commercial Division Steering Committee, designed to function as a partnership between the legislative and judicial branches of government to develop proposals to implement the new project, determine relevant measurable outcomes and determine other areas of technology or infrastructure that could add additional efficiencies throughout Maine courts.

Committee Amendment "A" (H-620) proposed to replace the bill. Part A of the amendment proposed to establish the Business and Consumer Specialized Civil Docket pilot project within the Maine court system beginning January 1, 2006. The proposed pilot project is intended to assist all litigants, regardless of area of law, in finding prompt resolution of matters before the Court.

Part B of the amendment proposed to establish the Business and Consumer Specialized Civil Docket Advisory Committee to make recommendations to the Supreme Judicial Court to implement the new pilot project, determine relevant measurable outcomes and determine other areas of technology or infrastructure that could add additional efficiencies throughout Maine courts.

This bill was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

LD 1526	An Act To Enact the Uniform Parentage Act and Conforming Amendments and Additional Amendments to Laws Concerning Probate, Adoption, Child Support, Child Protection and Other Family Law Issues	CARRIED OVER
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1526 proposed to enact the Maine version of the Uniform Parentage Act. Part B of the bill contains proposed amendments to the Maine Revised Statutes, Title 4 and Title 19-A provisions concerning paternity and child support to make them consistent with the Uniform Parentage Act. Part C proposed to amend the intestate succession provisions of the Probate Code so that children will inherit from parents as recognized in the Uniform Parentage Act and parents recognized by the Uniform Parentage Act will inherit from their children. Part D of the bill proposed to amend the adoption laws, guardianship laws and child protection laws to be consistent with the Uniform Parentage Act. Part E proposed cross-reference changes.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1532	An Act To Protect Maine Citizens from Lead Hazards that Harm Maine Children and Families	PUBLIC 339
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH HOBBINS	OTP-AM	H-542 S-275 HOBBINS

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LD 1532 proposed to address lead poisoning from lead-based paint by imposing liability on a property owner whose failure to comply with the Lead Poisoning Control Act results in a child's lead poisoning. It proposed to prohibit housing discrimination that occurs because the property does or may contain an environmental lead hazard for which liability for the lead poisoning of a child could be imposed. It proposed to establish in statute the minimum blood lead levels necessary to trigger the graduated department action. It proposed to require the owner of real property to reimburse the Department of Health and Human Services for inspection costs if an environmental lead hazard exists on the inspected premises. It proposed to require the Department of Health and Human Services to prepare forms that sellers of real property are required to provide to purchasers and landlords are required to provide to tenants, explaining the dangers of lead exposure.

Committee Amendment "A" (H-542) proposed to delete everything from the bill except the requirement that landlords and property sellers of residential property provide residential real property disclosure forms that explain lead-based paint hazards to potential tenants and purchasers.

Senate Amendment "A" to Committee Amendment "A" (S-275) proposed to clarify that the Department of Health and Human Services may combine the new form requirements and the federal form requirements into one form for sellers and another form for lessors. The amendment proposed to add a statement that the disclosure forms provisions are not to be construed to affect any rights, duties or liability under federal law.

Enacted law summary

Public Law 2005, chapter 339 requires that landlords and property sellers provide residential real property disclosure forms that explain lead-based paint hazards to potential tenants and purchasers. The disclosure forms provisions are not to be construed to affect any rights, duties or liability under federal law.

LD 1542 An Act To Provide Relief to Retailers Who Have Been Issued Bad Checks PUBLIC 365

Sponsor(s)
KAELIN
WESTON

Committee Report
OTP-AM

Amendments Adopted
H-612

LD 1542 proposed to impose a penalty for issuing a second bad check within a year of the first violation to the same payee, the penalty to be paid to the payee. This bill also proposed to require the eight district attorneys to implement a uniform policy on collecting worthless instruments.

Committee Amendment "A" (H-612) proposed to clarify that a bad check, referred to as a dishonored check, may not be counted as the first bad check to a payee unless it remained unpaid for at least 45 days. Any subsequent check intentionally issued or negotiated knowing it will not be honored, written to the same payee, will subject the issuer to the additional liquidated damages if the face amount is not paid within 30 days of the demand of the payee. The amendment proposed to delete section 2 of the bill, which directed the district attorneys of the State to establish a uniform policy on the collection of worthless instruments.

Enacted law summary

Public Law 2005, chapter 365 imposes a penalty for issuing a second bad check within a year of the first violation to the same payee. The penalty is paid to the payee. A bad check, referred to as a dishonored check, may not be

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counted as the first bad check to a payee unless it remained unpaid for at least 45 days. Any subsequent check intentionally issued or negotiated knowing it will not be honored, written to the same payee, will subject the issuer to the additional liquidated damages if the face amount is not paid within 30 days of the demand of the payee.

LD 1551

An Act To Make Technical Amendments to the Maine Uniform Trust Code

**PUBLIC 184
EMERGENCY**

Sponsor(s)
MILLS P

Committee Report
OTP

Amendments Adopted

LD 1551 proposed several changes to the Maine Uniform Trust Code, which was enacted by the 121st Legislature and which takes effect July 1, 2005.

Enacted law summary

Public Law 2005, chapter 184 makes several changes to the new Maine Uniform Trust Code which takes effect July 1, 2005. It preserves the effectiveness of powers of durable powers of attorney executed prior to July 1, 2005. It clarifies several definitions. It allows the settlor of a trust to keep the trust private by limiting the persons to whom notice and reports must be given. To keep the trustee accountable to someone, a trust that takes advantage of the option to restrict notice must designate a representative, sometimes called a "trust protector," to receive the same information that would otherwise be provided to qualified beneficiaries.

Chapter 184 clarifies when a charitable organization, a person other than a beneficiary appointed to enforce a trust and the Attorney General are entitled to the notice and reports that are required to be provided to a qualified beneficiary. It also adds language that is designed to prevent an adverse federal estate and gift tax result that some commentators have identified as a possibility when the settlor of an irrevocable trust can give consent on behalf of a beneficiary to a modification or termination of the trust. If a beneficiary's interest is not protected by a spendthrift provision, a creditor can attach only distributions to the beneficiary and not payments made by the trustee to 3rd parties that in some way help the beneficiary.

Chapter 184 clarifies the beneficiary's right to take legal action against a trustee for failure to act in accordance with the terms and purposes of the trust. Beneficiaries who are also trustees are protected from creditors to the extent that distributions are subject to an ascertainable standard.

The settlors of Maine trusts are protected by making it clear that the remainder beneficiaries have no rights as long as the settlor of a revocable trust is alive, even if incapacitated. Chapter 184 deletes the requirement that the Attorney General must approve the charity's appointment of the successor trustee of a charitable trust. Innocent 3rd parties who purchase from a trustee are protected from a forfeiture of the property if the trustee acted wrongfully. This protects the integrity of real estate titles and is identical to the provisions of Maine law with respect to fraudulent transfers.

Chapter 184 provides that the requirement of giving notice to beneficiaries does not require trustees to send additional notices to beneficiaries of trusts already in existence on July 1, 2005. Existing Maine law applicable to a trustee's exercise of discretionary power is not changed; no new or additional standards are imposed upon trustees exercising discretion.

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Public Law 2005, Chapter 184 was enacted as an emergency measure effective July 1, 2005.

LD 1559

An Act To Adopt the Uniform Environmental Covenants Act

PUBLIC 370

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS SHERMAN	OTP-AM	S-328

LD 1559 proposed to adopt the Uniform Environmental Covenants Act as prepared by the National Conference of Commissioners of Uniform State Laws to provide a systematic approach to adoption and recording of environmental covenants, such as deed restrictions, and to protect the legal integrity of covenants once recorded.

Committee Amendment "A" (S-328) proposed to make the following changes:

1. Refine the definition of "environmental covenant;"
2. Revise the definition of "environmental response project;"
3. Clarify that the Department of Environmental Protection may be a holder of an environmental covenant without approval of the Board of Environmental Protection;
4. Amend the language stating that the priority of recorded interests is determined by other law;
5. Eliminate a reference to the Maine Administrative Procedure Act's review process concerning an agency determination of whether the benefits under the covenant can no longer be realized;
6. Prohibit the agency from waiving the requirement of the signature on the covenant by an owner of the fee simple if the owner is the current occupant of the real estate that is the subject of the covenant;
7. Allow amendment of the environmental covenant without the holder's consent if the holder has, in a signed record, already waived the right to consent to an amendment; and
8. Delete the requirement to maintain a list of environmental covenants and a specified process for ensuring recording and record keeping.

Enacted law summary

Public Law 2005, chapter 370 adopts the Uniform Environmental Covenants Act to provide a systematic approach to adoption and recording of environmental covenants, such as deed restrictions, and to protect the legal integrity of covenants once recorded. "Environmental covenant" includes the element that it is documented in a recordable instrument; "environmental covenant" does not include a municipal ordinance, a voluntary or other remedial action plan or an administrative or judicial order that may impose activity or use limitations. "Environmental response project" includes remediations under the State's voluntary response action program. The Department of Environmental Protection may be a holder of an environmental covenant without approval of the Board of Environmental Protection. Chapter 370 prohibits the agency from waiving the requirement of the signature on the covenant by an owner of the fee simple if the owner is the current occupant of the real estate that

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is the subject of the covenant. It allows amendment of the environmental covenant without the holder's consent if the holder has already waived the right to consent to an amendment in a signed record.

LD 1566

**An Act Concerning Full Faith and Credit for Legal Documents
Executed in Other Jurisdictions**

PUBLIC 284

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J HOBBINS	OTP-AM	H-468

LD 1566 proposed to amend the Probate Code to provide that powers of attorney validly executed in other jurisdictions are valid in this State, even if the Maine requirements for that document are not met. It proposed to create a presumption that the out-of-state power of attorney was executed in compliance with the law of the jurisdiction in which it was executed. It proposed to exempt from the specific protective notice provisions of the Maine Revised Statutes, Title 18-A, section 5-508 certain financial powers of attorney. It proposed that durable financial powers of attorney that are executed for the limited purpose of providing for the representation of the principal in specific real estate transactions would not need to include the cautionary language about the authority of agents and principals that is required for other financial powers of attorney.

Committee Amendment "A" (H-468) proposed to delete the language that exempts from the specific protective notice provisions of the Maine Revised Statutes, Title 18-A, section 5-508 certain financial powers of attorney. The amendment also proposed to strike the language relative to the reliance on powers of attorney. The amendment also proposed to delete health care powers of attorney from the list of powers of attorney from other jurisdictions that would be valid in Maine.

Enacted law summary

Public Law 2005, chapter 284 amends the Probate Code to provide that powers of attorney validly executed in other jurisdictions are valid in this State, even if the Maine requirements for that document are not met. The types of powers of attorney covered are both durable and nondurable, and include financial powers of attorney and health care powers of attorney. It also creates a presumption that the out-of-state power of attorney was executed in compliance with the law of the jurisdiction in which it was executed.

LD 1567

**Resolve, Encouraging the Continuing Education of Physicians
Regarding Disclosure of Confidential Medical Information**

RESOLVE 94

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J HOBBINS	OTP-AM	H-501

LD 1567 proposed to amend the model advance health care directive contained in the Uniform Health-care Decisions Act to ensure that health care providers are not limited in the medical information they can provide to the patient's agent under the federal Health Insurance Portability and Accountability Act of 1996.

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Committee Amendment "A" (H-501) proposed to replace the bill to create a resolve directing the Department of Health and Human Services to encourage health care providers to include information in their continuing education programs that will assist in clarifying the rights of agents to receive confidential medical information.

Enacted law summary

Resolve 2005, chapter 94 directs the Department of Health and Human Services to encourage health care providers to include information in their continuing education programs that will assist in clarifying the rights of agents to receive confidential medical information.

LD 1569 An Act To Abolish the Maine Indian Tribal-State Commission CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOORE F		

LD 1569 proposed to abolish the Maine Indian Tribal-State Commission and create in its place the Intergovernmental Tribal-State Board. The board would consist of two members appointed by the Passamaquoddy Tribe, two members appointed by the Penobscot Nation, two members appointed by the Houlton Band of Maliseet Indians, four members appointed by the Governor and subject to review by the Joint Standing Committee on Judiciary and confirmation by the Legislature, two members appointed by the Attorney General subject to review by the Joint Standing Committee on Judiciary and confirmation by the Legislature, one member of the Senate appointed by the President of the Senate and one member of the House of Representatives appointed by the Speaker of the House.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1575 An Act To Require Parental Notification of Teenage Abortions ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY	ONTP MAJ	
SNOWE-MELLO	OTP-AM MIN	

LD 1575 proposed to require parental notification before an abortion is performed or induced on a pregnant minor. The bill proposed to include an exception for a medical emergency in which the pregnant minor's life is in danger, and a judicial bypass procedure.

Committee Amendment "A" (H-649), the minority report of the Joint Standing Committee on Judiciary, proposed to revise the exceptions to the parental notification requirements to provide an exception when, in the physician's best judgment, the abortion is necessary for the preservation of the life or health of the pregnant minor. (Not adopted)

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LD 1582

An Act To Protect Maine Citizens from Medical Negligence

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER- SIMPSON	ONTP	

LD 1582 proposed to protect patients in four ways:

1. Require that a sentinel event report about a particular patient be given to that patient or the patient's representative within five days of the report's being submitted to the Department of Health and Human Services;
2. Authorize punitive damages in certain medical malpractice situations;
3. Require the Board of Licensure in Medicine to revoke the license of a physician when the physician has at least three adverse judgments for professional negligence; and
4. Revise the statute of limitations in medical malpractice actions to institute a discovery rule, which delays the running of the statute of limitations until the medical malpractice is discovered or reasonably should have been discovered.

LD 1589

An Act To Improve Child Support Services

PUBLIC 352

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER- SIMPSON NASS R	OTP-AM	H-613

LD 1589 proposed several changes to the laws governing child support concerning: juveniles committed pursuant to the Maine Juvenile Code; department employees representing the department in paternity and child support proceedings; responsibility for child support when a caretaker relative provides primary care; child support orders that apply to multiple children; assistance of either party in the modification of a child support order; providing notice to licensing and credentialing boards; administrative establishment of a child support debt for a time period not addressed by an existing court order; permissible evidence at an administrative appeal; requirement that financial institutions honor an order to withhold and deliver.

Committee Amendment "A" (H-613) proposed to delete the provision addressing administrative establishment of a child support debt for a time period not specifically addressed by an existing court order. It proposed to correct references to definitions of financial institutions and credit unions authorized to do business in this State. It proposed to provide that the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney and to be notified of these rights in writing do not apply in the appeal of an administrative order establishing a parental support obligation. It proposed to direct the Department of Health and Human Services, working in cooperation with the Family Law Advisory Commission, to study the need for legislation to address automatic modification of child support orders that cover multiple children when one of the

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children is no longer eligible for child support because of age, emancipation or death. See the decision of the Maine Supreme Judicial Court in Bartlett v. Anderson, 2005 ME 10, 866 A.2d 829.

Enacted law summary

Public Law 2005, chapter 352 makes the following changes to the laws governing child support.

1. It requires the court to order either or both parents of a juvenile to pay child support in accordance with the child support guidelines when the court commits a juvenile to the Department of Health and Human Services, to the Department of Corrections juvenile correctional facility or to a relative or other person pursuant to the Maine Juvenile Code.
2. It allows the Commissioner of Health and Human Services to designate employees of the department who are not attorneys to represent the department in proceedings involving the expedited process for the commencement of paternity actions filed by a party other than the department and in proceedings to hear a motion to modify child support.
3. It provides that both parents are responsible for child support if a caretaker relative provides primary residential care for a child.
4. It provides that with regard to any initial or modified child support order that affects more than one child and that was entered before January 18, 2005, unless that order states the manner in which the order must be modified, such an order must be automatically modified to address any of the following events: any child reaches 18 years of age and has graduated from secondary school; any child reaches 19 years of age without having graduated from secondary school; any child obtains an order of emancipation; or any child dies. This change is made in response to the decision of the Maine Supreme Judicial Court in Bartlett v. Anderson, 2005 ME 10, 866 A.2d 829.
5. It allows the department to assist either party in the modification of a child support order.
6. It allows the department to serve notice of the department's intention to submit an obligor's name to the appropriate board as a licensee who is not in compliance with an order of support in the same manner as a notice is served in connection with the revocation of a motor vehicle license under the Maine Revised Statutes, Title 19-A, section 2202, subsection 2.
7. It clarifies the permissible evidence at the administrative appeal of a decision establishing or modifying a child support order.
8. It requires that an order to withhold and deliver issued by an out-of-state child support agency or court be honored by a financial institution.
9. It directs the Department of Health and Human Services, working in cooperation with the Family Law Advisory Commission, to study the need for legislation to address automatic modification of child support orders that cover multiple children when one of the children is no longer eligible for child support because of age, emancipation or death. The department shall report to the Joint Standing Committee on Judiciary no later than January 1, 2006. The committee may report out legislation after receipt and review of the report.

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LD 1609

An Act To Establish the Uniform Partnership Act

CARRIED OVER

Sponsor(s)
HOBBINS

Committee Report

Amendments Adopted

LD 1609 proposed to repeal the existing Uniform Partnership Act and enact the Revised Uniform Partnership Act of 1997 (RUPA) as the new Uniform Partnership Act.

See also LD 986.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1611

An Act To Clarify That Certain Maine Landowner Liability Protection Laws Apply to Certain Railroad Properties, Railroad Rights-of-way and Utility Corridors

PUBLIC 375

Sponsor(s)
HOBBINS

Committee Report
OTP-AM

Amendments Adopted
H-633 PELLETIER-
SIMPSON
S-314

BRYANT M

LD 1611 proposed to add railroad rights-of-way and utility corridors that are used as part of a designated recreational trail to the definition of "premises" in the law that limits a landowner's liability when allowing recreational activities or harvesting activities on the lands.

Committee Amendment "A" (S-314) proposed to revise the definition of "premises" to include railroad property, railroad rights-of-way and utility corridors to which the public has a right of access.

House Amendment "A" to Committee Amendment "A" (H-633) proposed to clarify that the liability protection is for those properties to which public access is permitted.

Senate Amendment "A" to Committee Amendment "A" (S-327) proposed to clarify that the liability protection is for those properties to which the public has access. (Not adopted)

Enacted law summary

Public Law 2005, chapter 375 adds railroad rights-of-way and utility corridors that are used as part of a designated recreational trail to the definition of "premises" in the law that limits a landowner's liability when allowing recreational activities or harvesting activities on the lands.

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LD 1622

An Act To Correct Errors and Inconsistencies in the Laws of
Maine

PUBLIC 397
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-692 H-699 PELLETIER- SIMPSON S-378 HOBBS

LD 1622 proposed to make technical corrections to the Laws of Maine.

Committee Amendment "A" (H-692) proposed to make additional technical corrections and some changes that are or could be considered substantive.

House Amendment "A" to Committee Amendment "A" (H-699) proposed to correct an omission of the designation of aggravated cruelty to animals as a Class C crime.

Senate Amendment "A" to Committee Amendment "A" (S-378) proposed to correct conflicts and cross-references in the Maine Revised Statutes, Title 12, Part 13 that were created as a result of the recodification process.

Senate Amendment "B" to Committee Amendment "A" (S-391) proposed to authorize the Legislative Council to curtail the staffing provided by the Office of Policy and Legal Analysis to the Citizen Trade Policy Commission when the Legislature is in regular or special session. (Not adopted)

Enacted law summary

Public Law 2005, chapter 397 corrects technical errors and inconsistencies in the laws of Maine, and makes the following changes that are or may be considered substantive:

1. Clarifies that the biennial State Health Plan must be issued by December 1, 2005 and every two years thereafter;
2. Changes the Government Evaluation Act review scheduled for the Department of Human Services to apply to the Department of Health and Human Services;
3. Carries out the intent of the Legislature in closing the Bar Harbor District Court. This language reflects the savings contained in the Part 1 Budget, Public Law 2005, chapter 12 and has an effective date of June 30, 2005;
4. Amends the newly enacted law required to achieve compliance with the interstate lobster fishery management plan;
5. Updates language providing complimentary fishing licenses to residents of institutions under the control of the Department of Behavioral and Developmental Services because that department is now part of the Department of Health and Human Services;

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6. Amends the nonprofit corporation laws concerning general powers to update the reference to the state department that administers the Maine Uniform Accounting and Auditing Practices Act for Community Agencies, which is now the Department of Health and Human Services;
7. Corrects an error in the section establishing the membership of the Maine Educational Loan Authority;
8. Corrects a conflict by repealing the provision requiring the Department of Health and Human Services to contract with a statewide nonprofit organization to provide nontraditional job training and placement services for women receiving assistance under TANF, which was added to a chapter in 1997 that was repealed that same year. The concept is added to existing law;
9. Revises language describing information that must be reported to a health care practitioner's professional board or authority following an adverse action against a practitioner. The reporting requirement was added by Public Law 2005, chapter 221;
10. Corrects the cross-reference to minimum law enforcement policy standards for the recording and preservation of interviews of suspects in serious crimes. It also inserts a cross-reference to policies concerning public notification regarding persons who must register under the Sex Offender Registration and Notification Act of 1999, and puts the references in order. It also changes the date by which the Maine Criminal Justice Academy must adopt the model policy on public notification to January 1, 2006. This is consistent with Public Law 2005, chapter 331, section 16;
11. Carries out the intent of the Legislature to maintain the law enforcement officer solicitation laws;
12. Updates the membership of the Children's Mental Health Oversight Committee;
13. Amends the real estate transfer tax exemptions concerning deeds of distribution to include a reference to the Maine Uniform Trust Code, enacted by the 121st Legislature;
14. Corrects a drafting error in Public Law 2005, chapter 226 concerning standards for timber harvesting in shoreland areas;
15. Amends an unallocated transition section of Public Law 1999, chapter 706 pertaining to appointments and terms of members of the Maine State Museum Commission;
16. Provides an effective date of December 31, 2005 for the repeal of the Revised Maine Securities Act. This date is the same as the effective date of the Maine Uniform Securities Act, as enacted by Public Law 2005, chapter 65; and
17. Corrects an omission of the designation of criminal class for aggravated cruelty to animals.

Public Law 2005, chapter 397 was enacted as an emergency measure effective June 17, 2005.

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LD 1646

An Act Regarding Buildings on Leased Lots

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLARK DAVIS P		

LD 1646 proposed changes to the laws governing buildings on leased land in the following ways:

1. To provide that these laws apply to land in an organized area as well as to land in the unorganized territory;
2. To provide that a lessor may not terminate a lease without just cause and that a lessor shall reimburse a lessee for the fair market value of all improvements on the leased real estate if the lessor terminates the lease;
3. To provide a lessee with a right of first refusal for the fair market value of the leased land with regard to the leased premises if the lessor intends to sell any real estate in this State. If a lessee does not elect to purchase the leased premises, the lease continues with the same terms, except for annual rental fees, for no less than 50 years. The annual rental fee is capped at 5% of the fair market value of the leased premises, excluding improvements; and
4. To exempt certain transactions from capital gains taxation and certain land use laws.

See also LD 162.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1679

An Act To Amend Procedures Used in Criminal Proceedings in Which the Victim Is Mentally Disabled

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE HOBBINS		

LD 1679 proposed to extend the admissibility into evidence of certain out-of-court statements describing sexual contact to those made by persons with mental retardation.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.

LD 1682

An Act To Support Sibling Rights in Child Welfare Custody Matters

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ANDREWS		

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LD 1682 proposed to allow the court to order sibling visitation for a child in foster care when it is in the best interests of the child to do so.

This bill was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.